

NOTICE TO CLASS MEMBERS
FEDERAL COURT OF AUSTRALIA

RBS CLAIM WARRANTS CLASS ACTION

NSD1016/2014

1. Why is this notice important?

A class action has been commenced in the Federal Court of Australia by Rebecca Louise Dillon and Rebecca Jane Dobson against RBS Group (Australia) Pty Limited (**RBS**), RBS Alternative Investments (Australia) Pty Ltd and RBS Nominees (Australia) Pty Limited.

The action arises out of advice provided by Navra Financial Services Pty Ltd (**Navra**) to its clients to acquire instalment warrants issued by RBS (formerly known between 2 June 2006 and 15 March 2009 as ABN AMRO Australia Pty Limited) pursuant to a number of Product Disclosure Statements (**PDS**).

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

You have been identified as a potential class member. 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.

2. What is a class action?

A class action is an action that is brought by one or a small number of people (**Applicant** or **Applicants** – in this case Rebecca Dillon and Rebecca Dobson) on behalf of a class of people (**class members** – this may include you) against another person (**Respondents** – in this case RBS, RBS Alternative Investments (Australia) Pty Ltd and RBS Nominees (Australia) Pty Limited) in circumstances in which the Applicants and the class members have similar claims.

Class members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the Applicant is responsible for the costs.

Class members are bound by 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 class members *will not* be able pursue the same claims and *may not* be able

to pursue similar or related claims against the Respondents in other legal proceedings. Class members should note that:

- (a) in a *judgment* the Court will decide various factual and legal issues. Unless those decisions are successfully appealed they bind the Applicant, class members and the Respondents. Importantly, if there are other proceedings between a class member and the Respondents, it is likely that neither of them will be permitted to raise arguments 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 Respondents which arise in any way out of the events or transactions which are the subject-matter of the class action (including any rights to obtain additional compensation from the Respondents).

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).

3. What is this class action?

In this class action, the RBS Claim Warrants Class Action, the Applicants allege that the class members were advised by Navra to acquire interests in one or more Claim Warrants and they have lost money and property as a result.

The Applicants say that RBS, as the product issuer of the Claim Warrants, was responsible for some of these losses for four reasons:

- RBS breached its contractual obligations by issuing Claim Warrants without due care and skill and which were not reasonably fit for the class members' purposes;
- RBS engaged in "unconscionable conduct" in issuing the Claim Warrants;
- RBS is liable for Navra's misrepresentations to its clients because it was a "linked credit provider" of Navra;
- the contracts in respect of the Claim Warrants were unjust or unfair.

The Respondents deny the allegations and are defending the class action.

4. What is 'Opt Out'?

The Applicant in a class action does not need to seek the consent of class members to commence a class action on their behalf or to identify a specific class member. However, class members can cease to be class members by opting out of the class action. An explanation of how class members are able to opt out is found below in the section headed "Opting out of the class action".

5. Are you a class member?

You are a class member in the RBS Claim Warrants Class Action if:

- A. during the period February 2008 and March 2011 you acquired from RBS interests in one or more of the following Claim Warrants:
- a. Unlisted Rolling Instalment Warrant with warrant code “NRFUZA”;
 - b. Unlisted Rolling Instalment Warrant with warrant code “NRFUZZ”;
 - c. Unlisted Rolling Instalment Warrant with warrant code “NRFKZA”;
 - d. Unlisted Rolling Instalment Warrant with warrant code “NRFKZB”;
 - e. Unlisted Rolling Instalment Warrant with warrant code “NRFKZC”;
 - f. Managed Fund Instalment Warrant with warrant code “NRFKZE”;
 - g. Managed Fund Instalment Warrant with warrant code “NRFKZF”;
 - h. Managed Fund Instalment Warrant with warrant code “NRFKZG”;
- B. have suffered loss and damage by reason of your acquisition of one or more of the Claim Warrants; and
- C. have not settled your claims with RBS.

If you are unsure whether or not you are a class member, you should contact the Applicants’ lawyers, Shine Lawyers on 1800 753 239 or email rbs@shine.com.au or seek your own legal advice without delay.

6. Will you be liable for legal costs if you remain a class member?

You will **not become liable for any legal costs** simply by remaining as a class member for the determination of the common questions. However:

- (a) if the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Shine Lawyers or other lawyers to do that work for you. A copy of the terms on which Shine Lawyers are acting in the class action may be obtained from them by calling them on 1800 753 239 or emailing them at rbs@shine.com.au;
- (b) if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Applicants in running the class action but which are not able to be recovered from the Respondents; and
- (c) class actions are often settled out of court. If this occurs, you may be able to claim from the settlement amount without retaining a lawyer, however the Court may still order that legal costs be deducted from the settlement amount.

7. What will happen if you choose to remain a class member?

Unless you opt out, you will be bound by any settlement or judgment of the class action. If the class action is successful (and assuming you do not opt out), you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicants and class members. In some cases you may have to satisfy certain conditions before your entitlement arises. If the action is unsuccessful or is not as

successful as you might have wished, you will not be able pursue the same or related claims against the Respondents in any other proceeding.

8. What do you need to do

(a) Opting out of the class action

If you do not wish to remain a class member you must opt out of the class action. If you opt out you will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be at liberty to bring your own claim against the Respondents, provided that you issue Court proceedings within the time limit applicable to your claim.

If you wish to bring your own claim against the Respondents, you should seek your own legal advice about your claim and the applicable time limit **prior** to opting out.

If you wish to opt out of the class action you **must** do so by completing a “**Opt Out Notice**” in the form attached and marked “A”, then returning it to the Registrar of the Federal Court of Australia at the address on the form. **IMPORTANT: the Notice must reach the Registrar by no later than 4pm on 25 August 2017**, otherwise it will not be effective.

You should submit the Opt Out Notice of opting out by class member if you qualify as a class member and you wish to opt out of the class action; or you believe that you have been incorrectly identified as a class member, because you do not meet the criteria set out in the section headed “Are you a class member” above.

Each class 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).

(b) Remaining a class member and registering to make a claim

If you wish to remain a class member and participate in the class action or any settlement, subject to any order the Court may later make, **you do not need to do anything**.

The Applicants will continue to bring the proceeding up to the point where the Court determines those questions that are common to the claims of the Applicants and the class members or otherwise up to the point where the Court determines that you must register in the event that a settlement is achieved by the parties. However, you are encouraged to complete the Registration Form attached and marked “B” and return it to the Applicants’ lawyers, Shine Lawyers, via email at rbs@shine.com.au or to Level 6, 299 Elizabeth Street Sydney as soon as practicable so that future notices about the class action can be sent to your preferred address.

The names and addresses of all the class members who have returned a completed Registration Form will be provided by the Applicants' lawyers to the Respondents' lawyers and may be provided to the Court.

9. Where can you obtain copies of relevant documents?

Copies of relevant documents, including the current pleadings may be obtained by:

- (a) downloading them from <https://www.shine.com.au/service/class-actions/royal-bank-scotland-rbs-class-action> ;
- (b) inspecting them between 9am and 5pm at one of the offices of Shine Lawyers by prior appointment to be made by calling 1800 753 239 or emailing rbs@shine.com.au;
- (c) by contacting a District Registry of the Federal Court (contact details are available www.fedcourt.gov.au) and paying the appropriate inspection fee; or
- (d) where appropriate arrangements have been made with the Court, inspecting them on the Federal Court website at <http://www.fedcourt.gov.au/law-and-practice/class-actions/class-actions>.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Shine Lawyers on 1800 753 239 or rbs@shine.com.au or seek your own legal advice. You should not delay in making your decision.

ATTACHMENT A

Form 21
Rule 9.34

OPT OUT NOTICE

No. NSD1016 of 2014

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

Rebecca Louise Dillion and Another
Applicants

RBS Group (Australia) Pty Ltd (ABN 78 000 862 797) and Another
Respondents

To: The Registrar
Federal Court of Australia
NSW District Registry
Queens Square
184 Phillip Street Sydney 2000

I,, a class member in this class action, give notice under section 33J of the *Federal Court of Australia Act 1976*, that I am opting out of the class action.

Date:

Signed:

.....
Name (please print)

.....
Capacity (delete as appropriate): class member/legal representative of class member
.....

.....
Filed on behalf of (name & role of party)

.....
Prepared by (name of person/lawyer)

.....
Law firm (if applicable)

.....
Tel Fax

.....
Email

.....
Address for service
(include state and postcode)

ATTACHMENT B
REGISTRATION FORM

No. NSD1016 of 2014

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

Rebecca Louise Dillion and Another
Applicants

RBS Group (Australia) Pty Ltd (ABN 78 000 862 797) and Another
Respondents

To: Shine Lawyers
Level 6, 299 Elizabeth Street
Sydney NSW 2000
Email: rbs@shine.com.au

The person identified as a class member below REGISTERS as a class member in this class action.

Name of Class Member:
ACN/ABN (if a company):
Address:
Telephone:
Email:

Claim Warrants Acquired (delete as appropriate):

NRFUZA

Number Acquired..... Date Acquired.....

NRFUZZ

Number Acquired..... Date Acquired.....

Filed on behalf of (name & role of party) _____
Prepared by (name of person/lawyer) _____
Law firm (if applicable) _____
Tel _____ Fax _____
Email _____
Address for service
(include state and postcode) _____

NRFKZA

Number Acquired..... Date Acquired.....

NRFKZB

Number Acquired..... Date Acquired.....

NRFKZC

Number Acquired..... Date Acquired.....

NRFKZE

Number Acquired..... Date Acquired.....

NRFKZF

Number Acquired..... Date Acquired.....

NRFKZG

Number Acquired..... Date Acquired.....

Date:

Signed:

Name (please print)

Capacity (delete as appropriate): class member/legal representative of class member
