

# Settlement Distribution Scheme

## Dick Smith Class Actions

**Supreme Court of New South Wales Case number 2017/294069**

**Supreme Court of New South Wales Case number 2018/52431**

**Supreme Court of New South Wales Case number 2019/209326**

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# Settlement Distribution Scheme

## Recitals

- A** The Plaintiffs, the Defendants, the Insurers, the Funders, Corrs and JWS have executed a Settlement Deed.
- B** This Settlement Distribution Scheme (**SDS**) establishes a procedure for allocating and distributing the Settlement Sum to be paid by the Defendants and Insurers pursuant to the Settlement Deed, as approved by the Court.
- C** This SDS does not become operative until the Court has made the Approval Orders.
- D** This SDS provides, among other things, for the following steps:
- (a) John Richard Park of FTI Consulting (Australia) Pty Ltd will be appointed as Administrator of the SDS;
  - (b) prior to any Distribution to the Plaintiffs or Group Members, the Administrator will deduct from the Scheme Distribution Fund amounts, as approved by the Court, in respect of:
    - (i) the Plaintiffs' Legal Costs;
    - (ii) the Group Member Reimbursement; and
    - (iii) the Administration Costs,leaving a Residual Settlement Sum;
  - (c) the Administrator will then distribute the Residual Settlement Sum to the Participating Group Members (including the Plaintiffs) on a pro-rata basis in accordance with the Assessments made by the Administrator;
  - (d) the Administrator will deliver to each Registered Group Member (including the Plaintiffs) in accordance with clause 3.2 below a Settlement Notice which will set out the Administrator's Assessment of the Registered Group Member's Claim (calculated in accordance with the Loss Assessment Formula) and an estimate of the Registered Group Member's Scheme Payment;
  - (e) in order to receive a Scheme Payment, a Registered Group Member must, in the manner and within a specified period of time determined by the Administrator, provide the Administrator (in the form determined by the Administrator) with any details that the Administrator reasonably requires to confirm their entitlement to a Scheme Payment and to receive their Scheme Payment;
  - (f) interest earned on the amount in the Scheme Distribution Fund will be applied, to the extent necessary, to payment of Administration Costs (with any excess allocated to the Participating Group Members).

## Operative part

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### 1 Definitions and interpretation

#### 1.1 Definitions

In this SDS, the following terms have the meanings defined below (clause references are references to the clauses of this document unless otherwise specified):

**Act** means the *Civil Procedure Act 2005* (NSW).

**Administration Costs** mean the costs and disbursements and approved by the Court in connection with the administration of this SDS, including (without limitation) any costs and disbursements in connection with:

- (a) any costs incurred by the Administrator, Plaintiffs, Funders, JWS or Corrs in obtaining an order or orders of the Court approving the settlement pursuant to section 173 of the Act, insofar as such costs are or were not included in the Plaintiffs' Legal Costs;
- (b) work performed by the Administrator, Funders, JWS or Corrs prior to the appointment of the Administrator and the approval of the SDS by the Court relating to the preparation of this SDS and preparing for implementation of this SDS;
- (c) the Administrator's assessment of Registered Group Members' Claims;
- (d) any review by the Administrator under clause 3.4 below;
- (e) any application by the Administrator to the Court pursuant to clause 6 below;
- (f) work performed by JWS, Corrs, ICP or TAC pursuant to clause 2.4 below;
- (g) any bank charges, taxes or other statutory fees or charges.

The Administrator's hourly rates in connection with the administration of this SDS shall be calculated at the rates set out in Schedule 3.

**Administrator** means John Richard Park of FTI Consulting (Australia) Pty Ltd acting as the Court appointed Administrator of this SDS.

**Appeal Date** means the date when all rights of appeal in relation to the Approval Orders are exhausted, as defined in clause 1.2 of the Settlement Deed.

**Approval Orders** means orders of Court approving the settlement of each of the Proceedings on the terms set out in the Settlement Deed under section 173 of the Act and approving this SDS.

**Assessment** means the value of a Registered Group Member's Claim calculated in accordance with clause 3.1 below.

**Business Day** means a day on which banks are open for general banking business in Sydney, New South Wales (not being a Saturday, Sunday or public holiday in that place).

**Claim** includes any claim, right or liability of any kind (including one which is prospective or contingent and one the amount of which is not ascertained) and costs (whether or not the subject of a court order) and any proof of debt or claim.

**Claim Data** means:

- (a) in the case of the Plaintiffs, the information contained in their affidavits filed or read as evidence in the Proceedings;
- (b) in the case of Group Members who have entered into a litigation agreement with one of the Funders in respect of the Proceedings, in the information provided by the Registered Group Member to the relevant Funder, and subsequently provided to the Administrator by TAC; and
- (c) in the case of other Registered Group Members:
  - (i) the information provided by the Registered Group Member in the process of registering to have their claims considered at the mediation of the Findlay Proceeding and Mastoris Proceeding pursuant to orders made by the Court on 20 August 2018 and 18 October 2018; and/or

- (ii) the information provided by the Registered Group Member in response to the Notice of Proposed Settlement of Claim Actions issued pursuant to orders made by the Court in the Proceedings on 17 December 2020,

and subsequently provided to the Administrator by TAC,

relating to all of their purchases and sales of DSH Shares, including the date, volume and price of each trade.

**Corrs** means the legal firm of Corrs Chambers Westgarth, solicitors for the Findlay Plaintiffs.

**Court** means the Supreme Court of New South Wales.

**Defendants** means the defendants to each of the Proceedings.

**Deloitte** means David White and the others listed in Annexure A to the 2FAJSOC, trading as Deloitte Touche Tohmatsu (ABN 74 490 121 060).

**Distribution** means payment to each of the Participating Group Members as described in clause 5.2 below.

**Distribution Fund Account** has the meaning given in clause 2.2(a) below.

**DSH** means DSHE Holdings Limited (receivers and managers appointed) (in liquidation), formerly called Dick Smith Holdings Limited.

**DSH Shares** means fully paid ordinary shares in DSH purchased between 14 November 2013 and 3 January 2016.

**Excluded Group Member**, in relation to a Proceeding, means a person who has opted out of that Proceeding or is permitted by the Court to opt out of that Proceeding.

**Findlay Plaintiffs** means Haliburton Charles David Findlay and Marian Jennifer Denny Findlay.

**Findlay Proceeding** means the proceedings brought by the Findlay Plaintiffs against DSH, Nicholas Abboud, Michael Thomas Potts and Deloitte, being Supreme Court of New South Wales case no. 2017/294069 titled *Findlay & Anor v DSHE Holdings Limited (receivers and managers appointed) (in liquidation) & Ors*, a representative proceeding under Part 10 of the Act.

**Funders** means:

- (a) Vannin in relation to the Findlay Proceeding; and
- (b) ICP in relation to the Mastoris Proceeding and the POSI Insurance Proceeding.

**Group Members** means:

- (a) the persons on whose behalf the Findlay Plaintiffs bring the Findlay Proceeding as defined in paragraph 34 of the 2FAJSOC other than Excluded Group Members in relation to the Findlay Proceeding;
- (b) the persons on whose behalf the Mastoris Plaintiffs bring the Mastoris Proceeding as defined in paragraph 34 of the 2FAJSOC other than Excluded Group Members in relation to the Mastoris Proceeding.

**Group Member Reimbursements** means payments as approved by the Court to some or all of the Findlay Plaintiffs and the Mastoris Plaintiffs to reimburse them for the time spent and expenditure reasonably incurred in the Proceedings for the benefit of the Group Members. For the avoidance of doubt, the Group Member Reimbursements are in addition to any Scheme Payments payable to the Plaintiffs.

**ICP** means ICP Capital Pty Ltd and Investor Claim Partner Pty Ltd.

**Insurers** means the Defendants to the POSI Insurance Proceeding together with XL Insurance Company SE (ABN 36 083 570 441) and Berkley Insurance Australia Ltd (ABN 53 126 559 706).

**JWS** means the legal firm of Johnson Winter & Slattery, solicitors for the Mastoris Plaintiffs.

**Loss Assessment Formula** means the formula by which the losses of each of the Participating Group Members are calculated as contained in Schedule 1 to this SDS.

**Mastoris Plaintiffs** means Epaminondas Mastoris and Lena Mastoris.

**Mastoris Proceeding** means the proceedings brought by the Mastoris Plaintiffs against DSH, Nicholas Abboud, Michael Thomas Potts and Deloitte, being Supreme Court of New South Wales case no. 2018/52431 titled *Mastoris & Anor v DSHE Holdings Limited (receivers and managers appointed) (in liquidation) & Ors*, a representative proceeding under Part 10 of the Act.

**Participating Group Member** means a Registered Group Member (which includes the Plaintiffs) who has complied with the requirements of clause 3.3 below in the manner, and within the time, determined by the Administrator.

**Plaintiffs** mean:

- (a) in the Findlay Proceeding, the Findlay Plaintiffs; and
- (b) in the Mastoris Proceeding and the POSI Insurance Proceeding, the Mastoris Plaintiffs.

**Plaintiffs' Legal Costs** means the amount approved by the Court as partial reimbursement of the Plaintiffs' reasonable legal costs and disbursements incurred on their own behalf and/or on behalf of all Group Members in conducting the Proceedings.

**POSI Insurance Proceeding** means the proceedings brought by the Mastoris Plaintiffs against Allianz Australia Insurance Limited and nine other insurer defendants, being Supreme Court of New South Wales case no. 2019/209326 titled *Mastoris & Anor v Allianz Australia Insurance Limited & Ors*, a representative proceeding under Part 10 of the Act.

**Proceedings** means the Findlay Proceeding, the Mastoris Proceeding and the POSI Insurance Proceeding.

**Registered Group Member** or **RGM** means a Group Member who has registered their claim, or who is deemed to have registered their claim, pursuant to paragraphs 10 and 11 of the orders made by the Court in the Proceedings on 17 December 2020, and also includes the Plaintiffs.

**Residual Settlement Sum** means the amount of the Settlement Sum and any interest on the Settlement Sum, after deduction of the Plaintiffs' Legal Costs, Group Member Reimbursements and Administration Costs from the Scheme Distribution Fund.

**Scheme Distribution Fund** means the Settlement Sum and any interest on that amount held by the Administrator until the Scheme Distribution Fund is distributed.

**Scheme Objective** means the objective of administering this SDS with regard to the best interests of Registered Group Members as a whole and, in particular, with a view to striking a balance between:

- (a) providing a reasonable time and opportunity for as many Registered Group Members as possible who may be entitled to receive a Scheme Payment under this SDS to be able to do so;

- (b) ensuring that the Administration Costs incurred in implementing this SDS are reasonable and the methods employed in implementing this SDS are practical, proportionate and cost effective having regard to the interests of the Registered Group Members as a whole; and
- (c) providing for the payment of Scheme Payments to the Participating Group Members within a reasonable period of time.

**Scheme Payment** means the amount to be distributed to a Participating Group Member from the Residual Settlement Sum pursuant to this SDS.

**SDS** means the terms of this settlement distribution scheme as approved by the Court, including any Schedules and Annexures.

**Settlement Deed** means the Settlement Deed executed by the Plaintiffs, the Defendants, the Insurers, the Funders, Corrs and JWS dated 5 March 2021.

**Settlement Notice** means the notice required by clause 3.2 below to be sent by the Administrator to each Registered Group Member, in the form set out in Annexure 1 to this SDS, as amended if required by the Administrator having regard to the Scheme Objective.

**Settlement Sum** means the sum of \$25,000,000 as defined in clause 1.1 of the Settlement Deed.

**TAC** means The Advisory Company Pty. Ltd. (ACN 607 923 740).

**Vannin** means Vannin Capital Operations Limited and Vannin Capital (Australia) Pty Ltd.

**2FAJSOC** means the Second Further Amended Joint Statement of Claim filed in the Findlay Proceeding and the Mastoris Proceeding on 7 January 2020.

## **1.2 Interpretation**

In this document, the following rules of interpretation apply unless a contrary intention appears.

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural, and the converse also applies;
- (c) a gender includes all genders;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (f) a reference to dollars and \$ is to Australian currency; and
- (g) a reference to anything done by any person includes a reference to the thing as done by a director, officer, servant, agent, personal representative or legal representative if permitted to be so done by law or by any provision of the Settlement Deed or this SDS.

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## **2 Scheme Administrator and Scheme Distribution Fund**

### **2.1 Commencement of SDS**

The procedure outlined below will occur on and after the making of the Approval Orders, at which time the terms of the SDS become effective, subject to any further order of the Court.

## **2.2 Payment of Settlement Sum**

- (a) The Administrator will open an interest-bearing account held with an Australian authorised deposit-taking institution (**Distribution Fund Account**) of which the account-holder is the Administrator no later than 2 Business Days after the Appeal Date and, on the day the account is opened, inform JWS and Corrs of the account details for the purposes of clause (b) below.
- (b) Within 5 Business Days of the establishment of the Distribution Fund Account, JWS and Corrs will cause the Settlement Sum (and any interest earned on it, less any applicable bank charges, taxes or other statutory fees or charges) to be paid into the Distribution Fund Account.

## **2.3 Administration of Scheme Distribution Fund**

- (a) The Scheme Distribution Fund shall be administered and applied by John Richard Park of FTI Consulting (Australia) Pty Ltd as Administrator.
- (b) The Administrator will:
  - (i) hold the Scheme Distribution Fund on trust for Registered Group Members until the Scheme Distribution Fund is distributed; and
  - (ii) distribute the Scheme Distribution Fund as expeditiously as possible, in accordance with this SDS, the Scheme Objective and any orders made by the Court in relation to the administration of this SDS.

## **2.4 Assistance by lawyers and ICP**

- (a) The Administrator may reasonably require JWS and/or Corrs, in their capacity as lawyers for the Plaintiffs, to assist with aspects of the administration of this SDS should the Administrator consider it necessary or expedient to do so and/or may, subject to any conflict of interest, retain JWS and/or Corrs to act for and/or advise the Administrator in connection with any application to the Court pursuant to clause 6 below or otherwise in relation to the Proceedings (having regard, among other things, to JWS's and Corrs' accumulated knowledge of the Proceedings), the SDS or its administration.
- (b) JWS or Corrs may retain counsel, including counsel retained in the Proceedings, in connection with any such requirement or retainer by the Administrator.
- (c) The rates of JWS, Corrs and counsel shall be as per the rates submitted to the costs referee in the Proceedings.
- (d) The Administrator may reasonably require ICP and/or TAC to assist with aspects of the administration of this SDS should the Administrator consider it necessary or expedient to do so (having regard to their role in collating and verifying the Claim Data).

## **2.5 Duties, Obligations and Role of the Administrator**

Without limiting the duties, obligations and role of the Administrator otherwise specified in this SDS, the Administrator:

- (a) is responsible for administering and distributing the monies in the Settlement Distribution Fund in accordance with the SDS and the Scheme Objective;
- (b) must act independently;
- (c) must perform his obligations conscientiously;



- (d) may engage third party service providers including, but not limited to, accountants, tax advisors, registry service providers and mailing houses;
- (e) may obtain advice in respect of tax matters arising from the administration of, and making payments from, the Settlement Distribution Fund and may seek a ruling from the Federal Commissioner of Taxation and any of the Commissioners of State Revenue if the Administrator determines that obtaining such a ruling would be in the best interests of the Registered Group Members; and
- (f) will determine the Registered Group Members' entitlements to receive Scheme Payments under the SDS.

## **2.6 Corrections**

Notwithstanding anything elsewhere contained in this SDS, the Administrator may at any time and in his sole discretion correct any error, slip or omission occurring in the course of his administration of the SDS.

## **2.7 Duties and liability of Administrator**

- (a) The Administrator's duties as trustees in respect of dealing with the Scheme Distribution Fund shall be as set out in this SDS.
- (b) The performance of the Administrator's obligations under this SDS shall constitute full performance of the Administrator's duties as trustee, and no claim shall be available against the Administrator in respect of any breach of trust except on the grounds that the Administrator has breached one or more of his obligations under this SDS.
- (c) Notwithstanding clause (b) above, the Administrator and his staff, in discharging any function or exercising any power or discretion conferred by this SDS, shall not be liable for any loss to the Plaintiffs or Group Members arising by reason of any mistake or omission made in good faith or of any other matter or thing except wilful and individual fraud and wrongdoing on the part of the Administrator or his staff.
- (d) The Administrator's liability to third parties and their recourse against the Administrator is limited to the assets the Administrator holds on trust.

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# **3 Assessments and Settlement Notices**

## **3.1 Calculation of Assessments**

- (a) As soon as practicable after this SDS is approved by the Court, the Administrator will make an Assessment of the Claim of each Registered Group Member.
- (b) The Assessment for each Registered Group Member shall be calculated by applying the Loss Assessment Formula to the Claim Data for the Registered Group Member.
- (c) The Administrator may, in his discretion based on information provided to him by a Registered Group Member, make corrections or amendments to the Claim Data for that Registered Group Member if he considers it fair and appropriate to do so.

## **3.2 Settlement Notices**

The Administrator will deliver to each Registered Group Member a Settlement Notice in accordance with clause 7.1 below at a time determined by the Administrator having regard to the Scheme Objective, which shall be not more than 4 weeks after the Appeal Date. The Settlement Notice will:

- (a) list the Claim Data pertaining to the Registered Group Member as known or adopted by the Administrator;

- (b) set out the Administrator's current estimate of the Registered Group Member's Scheme Payment;
- (c) set out the Loss Assessment Formula; and
- (d) advise the Registered Group Member of their rights under clause 3.4 below.

### **3.3 Response by Registered Group Members**

- (a) In order to be entitled to receive a Scheme Payment under this SDS, a Registered Group Member must, as soon as reasonably practicable and within any time determined by the Administrator, provide the Administrator, via an on-line portal established by the Administrator or in such other manner as required or allowed by the Administrator having regard to the Scheme Objective, with:
  - (i) any information that the Administrator reasonably requires to confirm their entitlement to a Scheme Payment (including to confirm that the person is a Group Member); and
  - (ii) any details that the Administrator reasonably requires to make a Scheme Payment to that Registered Group Member by electronic funds transfer.
- (b) Subject to clauses 5.4 and 8 below, any Registered Group Member that does not provide the information or details sought under clause (a) above to the Administrator's satisfaction, or does not provide the information or details sought in the time determined by the Administrator, is not entitled to receive any Scheme Payment under this SDS.
- (c) The Administrator may, in his discretion, send further notices to Registered Group Members who have not complied with clause (a) above, or advertise generally in relation to this SDS, having regard to the Scheme Objective.

### **3.4 Request for review**

- (a) If, within 14 days of the date of the Settlement Notice, a Registered Group Member notifies the Administrator (in the manner established by the Administrator for this purpose and notified to Registered Group Members) of any error, slip or omission in the Settlement Notice (including in the calculation of the Assessment), the Administrator may, in his absolute discretion, issue to that Registered Group Member an amended Settlement Notice (**Amended Settlement Notice**).
- (b) The accuracy of a Settlement Notice or Amended Settlement Notice shall be deemed to be accepted by a Registered Group Member unless the Registered Group Member, within 14 days of the date of the Settlement Notice or Amended Settlement Notice (as the case may be) delivers to the Administrator (in the manner established by the Administrator for this purpose and notified to Registered Group Members) a written request for a review, together with:
  - (i) copies of all documents on which the Registered Group Member relies for the purposes of the review;
  - (ii) any statement of reasons for seeking the review, such statement not to exceed two typed A4 pages; and
  - (iii) the alternative loss calculation on which the Registered Group Member relies, calculated in accordance with the Loss Assessment Formula.
- (c) If a Registered Group Member requests a review of a Settlement Notice or an Amended Settlement Notice, the Administrator shall review the request and copies of documents on which the Registered Group Member relies for the purposes of the review and, if satisfied that the request discloses an error, slip or omission by the

Administrator or any other administrative or clerical error, correct the notice to which the request relates.

- (d) If the outcome of a review under this clause 3.4 is that the Registered Group Member's Assessment does not increase, or does not increase by more than 10%, over the amount set out in the Settlement Notice or Amended Settlement Notice, the Administrator may, in his absolute discretion, deduct the Administrator's costs (or estimated costs) of conducting the review from the relevant Registered Group Member's Scheme Payment.

### **3.5 Reliance on Claim Data**

Subject to any exercise of discretion by the Administrator under clause 3.1(c) or 3.4 above, the Administrator's application of the Loss Assessment Formula to the Claim Data available to the Administrator at the time of calculating Assessments under clause 3.1 shall be treated as determinative of the entitlements of the Registered Group Members to any portion of the Scheme Distribution Fund, and for that purpose:

- (a) all Registered Group Members are taken to be Group Members;
- (b) the Administrator is not to, and is not required to, make any inquiry of a Registered Group Member as to whether they fulfil the requirements of paragraphs 34(d) or 36(d) of the 2FAJSOC;
- (c) the Administrator is not required to verify, including by reference to the supporting documentation provided by Registered Group Members, the accuracy of the Claim Data unless the Administrator has reason to believe, in the course of administering the SDS, that the Claim Data is wrong, implausible or inaccurate.

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## **4 Application of interest to Administration Costs**

- (a) Interest earned on the Distribution Fund Account (net of any liability for tax on that interest) will be applied, in the first instance, to payment of Administration Costs if and to the extent that the Administration Costs are approved by the Court.
- (b) Any additional Administration Costs incurred or estimated shall, subject to Court approval, be paid to the Administrator out of the Distribution Fund Account before any Distribution of the Scheme Distribution Fund pursuant to clause 5 below.
- (c) If the total amount of interest earned on the Scheme Distribution Fund exceeds the Administration Costs, including any estimated Administration Costs referred to in clause (b) above, such residual interest will be allocated to the Participating Group Members in the proportion that their Assessments bear to the Residual Settlement Sum distributed in accordance with clause 5 below.

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## **5 Distribution**

### **5.1 Initial payments**

- (a) Prior to any distribution of the Scheme Distribution Fund to Participating Group Members, the following payments shall be made, or amounts withheld, from the Scheme Distribution Fund:
  - (i) \$18,750,000 will be paid to the Funders in respect of the Plaintiffs' Legal Costs;
  - (ii) amounts will be paid to JWS and Corrs for the balance of the Plaintiffs' Legal Costs;

- (iii) amounts will be paid to each of the Plaintiffs for the Group Member Reimbursements; and
  - (iv) an amount will be paid to the Administrator (and, if relevant, the Plaintiffs, Funders, JWS, Corrs, ICP or TAC) for Administration Costs incurred to date;
  - (v) the Administrator shall withhold (and retain in the Distribution Fund Account) an amount representing the Administrator's estimate of the future Administration Costs (in addition to those already paid pursuant to clause (iv) above) to be incurred in finalising the administration of the SDS, and such amount shall not form part of the Residual Settlement Sum to be allocated between the Participating Group Members, subject to clause 5.3(d) below.
- (b) Once the payments and amounts referred to in clause (a) above are made and withheld, the amount in the Distribution Fund Account, referred to as the Residual Settlement Sum, shall then be distributed to the Participating Group Members in accordance with the remainder of this clause 5.

## **5.2 Allocation of Residual Settlement Sum**

Subject to clause 5.3 below, the Residual Settlement Sum shall be allocated between the Participating Group Members in the proportion which the Assessment of each Participating Group Member bears to the aggregate of the Assessments for all Participating Group Members.

## **5.3 Distribution of Residual Settlement Sum**

- (a) The Administrator may determine the date upon which he will make a Distribution of the Residual Settlement Sum to the Participating Group Members, having regard to the Scheme Objective.
- (b) The Administrator is not obliged to but may, in his discretion and having regard to the Scheme Objective, make a further attempt or attempts to make a Scheme Payment to a Participating Group Member (including confirming payment details with the Participating Group Member) where an initial payment has failed (including, for example, where an electronic funds transfer is unsuccessful or a cheque is not presented for payment). Where a Participating Group Member fails to respond to a request from the Administrator for confirmation of their payment details within 14 days, the Administrator may treat their Scheme Payment as subject to redistribution in accordance with clause (d) below.
- (c) The Administrator must not make any Distribution or payment to an Identified Group Member, as defined in the Settlement Deed, unless, prior to the date determined by the Administrator under clause (a) above, Allianz Australia Insurance Limited has provided advice in writing pursuant to clause 8.1(f) of the Settlement Deed that the Identified Group Member has been cleared from its sanction checks.
- (d) If, after the Distribution of the Residual Settlement Sum to the Participating Group Members, any amount remains or is held in the Scheme Distribution Fund, such as:
  - (i) further interest amounts accrued prior to the Distribution but received after the Distribution;
  - (ii) amounts not paid to Identified Group Members pursuant to clause (c) above;
  - (iii) the proceeds of any cheques that remain unrepresented for 180 days;
  - (iv) the proceeds of any electronic funds transfers that were unsuccessful; or

- (v) if the Administrator estimates that a lesser amount than that withheld under clause 5.1(a)(v) above is now required to finalise the administration of the SDS, the difference between that estimate and the amount so withheld,

the amount (net of any tax or bank charges) shall be distributed pro rata among the Participating Group Members in accordance with the Assessments, subject to clause (e) below.

- (e) At the Administrator's absolute discretion, any amount to be redistributed to the Participating Group Members under clause (d) above may instead be paid to Lifeline Australia if the aggregate amount to be redistributed is less than \$20,000.

#### **5.4 Method of payment**

- (a) Notwithstanding clause 3.3(a)(ii) above, the Administrator may, in his discretion, elect to make payment to a Participating Group Member by means other than electronic funds transfer (including by cheque), but is entitled to retain from the Participating Group Member's Scheme Payment an amount equal to the Administrator's reasonable estimate of the additional costs (or potential additional future costs) of making payment via that method, which amount may not exceed \$100.
- (b) In determining the method or methods to use in making payments to a Participating Group Member under this SDS, the Administrator shall have regard to the following:
  - (i) the Scheme Objective;
  - (ii) any reasons provided by the relevant person as to why it is impossible or impractical for them to receive payment by electronic funds transfer;
  - (iii) the information held for the relevant person by the Administrator, including whether any particular information appears to be invalid, incorrect or out of date;
  - (iv) any previous failures to send payments to that person using a particular payment method;
  - (v) the cost of each payment method and any administration fees paid or payable by the relevant person; and
  - (vi) the quantum or estimated quantum of the relevant person's Scheme Payment.
- (c) All Scheme Payments will be made by the Administrator in Australian dollars.

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## **6 Supervision by the Court**

- (a) The Administrator may refer any issues arising in relation to the SDS or the administration of the SDS to the Court for determination.
- (b) Any costs incurred in any such reference to the Court made by the Administrator shall be deemed to be Administration Costs.

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## **7 Notices**

### **7.1 How to give notices**

Any notice to be given pursuant to this SDS shall be deemed given and received for all purposes associated with this SDS if it is:

- (a) addressed to the person to whom it is to be given; and

- (b) either:
  - (i) sent by email to that person's email address, being the email address provided by a Registered Group Member with their registration or in their Claim Data or otherwise notified to the Administrator, and a server through which it is transmitted produces a report that states that the email has been delivered to the inbox of that person; or
  - (ii) if no such email address has been provided, delivered or sent by pre-paid mail to that person's postal address, being the postal address provided by a Registered Group Member with their registration or in their Claim Data or otherwise notified to the Administrator.

## **7.2 Time of receipt**

A notice that complies with clause 7.1 above will be deemed to have been given and received:

- (a) if it was sent by email, at the time it was sent;
- (b) if it was sent by mail, five clear Business Days after being sent.

## **7.3 Nominated persons**

- (a) Where a Registered Group Member is not a natural person and where one person has been nominated as the contact in respect of several Registered Group Members (and/or related entities), it is sufficient for the purpose of giving notice that any of the provisions of clause 7.1 above are complied with in relation to that nominated person.
- (b) Where a person is a Participating Group Member by virtue of information or registration submitted on their behalf by a trustee, investment manager, custodian, responsible entity, agent or legal personal representative, the Administrator may rely on any information, instruction or declaration provided by that trustee, investment manager, custodian, responsible entity, agent or legal personal representative as if it had been provided by the person itself.

## **7.4 Notices to Administrator**

The Administrator's address and email address shall be as set out below unless and until the Administrator provides notification otherwise:

John Park  
FTI Consulting  
Dick Smith Class Action

Central Plaza 1, Level 15  
345 Queen Street  
BRISBANE QLD 4000

GPO Box 3127  
BRISBANE QLD 4001

[dick.smith@fticonsulting.com](mailto:dick.smith@fticonsulting.com)

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## **8 Timing**

- (a) The Administrator will endeavour to complete the administration of this SDS within 6 months of the Approval Date.
- (b) Except where otherwise provided, the Administrator may determine the time or time periods for taking the necessary steps under this SDS, having regard to the Scheme Objective.

- (c) The time for doing any act or thing under the SDS may be extended by the Administrator in his absolute discretion.
  - (d) The time for doing any act or thing under the SDS may be extended or abridged by order of the Court.
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## **9 Finalisation of Administration**

### **9.1 *Distribution Report***

Within 21 days following the date on which the final Distribution from the Settlement Distribution Fund is made, the Administrator shall provide a brief report to the Court on:

- (a) the total of all Distributions paid to Participating Group Members; and
- (b) the number of Participating Group Members who have received Distributions.

### **9.2 *End of Administration***

Unless the Court otherwise orders, the Administrator will cease to be Administrator upon the later of the following.

- (a) all Distributions to the Participating Group Members have been made;
- (b) all amounts payable in accordance with clause 5 above are paid;
- (c) there remain no funds in the Settlement Distribution Fund; or
- (d) the provision of a report under clause 9.1 above.

## Schedule 1 – Loss Assessment Formula

### 1 Introduction

- (a) This Schedule sets out the formula (**Loss Assessment Formula**) by which Registered Group Members' losses are calculated for the purposes of this SDS.
- (b) In this Schedule, a reference to "**interest**" means simple interest calculated at the rates set out in clause 3 of this Schedule 1 to 7 December 2020.

### 2 Loss Assessment Formula

For the purposes of this SDS, the Registered Group Members' losses are to be calculated in accordance with this clause 2.

- (a) Subject to paragraphs (e) and (g) below, an RGM's loss is the sum of the weighted average of the RGM's Inflation Loss and No Transaction Loss for each parcel of DSH Shares purchased by the RGM between 14 November 2013 and 3 January 2016 (**Trading Period**), where the weighted average loss for each parcel of DSH shares purchased is calculated as follows:

$$\text{Loss} = (\text{Weighting} \times \text{Inflation Loss}) + ((1 - \text{Weighting}) \times \text{No Transaction Loss})$$

where:

**Weighting** is:

- (i) for DSH Shares issued to the RGM in the initial public offering of shares in DSH (**IPO**), 90%;
- (ii) for DSH Shares purchased after the IPO but before 19 August 2014, 95%;
- (iii) for DSH Shares purchased between 19 August 2014 and 16 August 2015 (inclusive), 97%; and
- (iv) for DSH Shares purchased on or after 17 August 2015, 98%.

**Inflation Loss** is calculated in accordance with clause (b) below.

**No Transaction Loss** is calculated in accordance with clause (c) below.

- (b) The Inflation Loss (which may be a positive or a negative amount) for each parcel of DSH Shares purchased by the RGM in the Trading Period is calculated as follows:

$$\text{Inflation Loss} = (\text{Inflation}_p - \text{Inflation}_s) \times \text{Scaling Factor}$$

where:

**Inflation<sub>p</sub>** (which may be a positive or a negative amount) is the sum of the following amounts for the relevant parcel of DSH Shares:

- (i) the artificial inflation in the DSH Shares purchased by the RGM, being the product (multiplication) of:
  - (A) the number of DSH Shares in the particular parcel purchased by the RGM; and
  - (B) the amount (which may positive or negative) by which the actual (or average) price per share paid exceeds the share price set out in Schedule 2 for the date of the purchase; and



- (ii) interest (which may be a positive or a negative amount) on the amount calculated under paragraph (i) above from the date of the purchase.

**Inflation<sub>s</sub>** (which may be a positive or a negative amount) is:

- (i) if the RGM sold all or any part of the relevant parcel of DSH Shares in the Trading Period in one or more transactions (the **Sold Parcel(s)**), the sum of the following amounts for each Sold Parcel:
  - (A) the artificial inflation in the Sold Parcel, being the product (multiplication) of:
    - (1) the number of DSH Shares sold by the RGM in the Sold Parcel; and
    - (2) the amount (which may positive or negative) by which the actual (or average) price per share received exceeds the share price set out in Schedule 2 for the date of the sale; and
  - (B) interest (which may be a positive or a negative amount) on the amount calculated under paragraph (A) above from the date of the sale; and
- (ii) nil if the RGM did not sell all or any part of the relevant parcel of DSH Shares in the Trading Period.

**Scaling Factor** is:

- (i) for DSH Shares issued to the RGM in the IPO, 60%;
  - (ii) for DSH Shares purchased after the IPO but before 19 August 2014, 60%;
  - (iii) for DSH Shares purchased between 19 August 2014 and 16 August 2015 (inclusive), 80%; and
  - (iv) for DSH Shares purchased on or after 17 August 2015, 100%.
- (c) The No Transaction Loss (which may be a positive or a negative amount) for each parcel of DSH Shares purchased by the RGM in the Trading Period is calculated as follows:

$$\text{No Transaction Loss} = (\text{Purchase Price} - \text{Sale Price} - \text{Dividends}) \times 60\%$$

where:

**Purchase Price** is the sum of:

- (i) the total amount paid for the parcel of DSH Shares; and
- (ii) interest on the amount paid for the parcel of DSH Shares from the date of the purchase.

**Sale Price** is the sum of:

- (i) if the RGM sold all or any part of the relevant parcel of DSH Shares in the Trading Period in one or more transactions (the **Sold Parcel(s)**), the sum of the following amounts for each Sold Parcel:
  - (A) the total amount received for the sale of the Sold Parcel; and
  - (B) interest on the total amount received for the sale of the Sold Parcel from the date of the sale; and

- (ii) nil if the RGM did not sell all or any part of the relevant parcel of DSH Shares in the Trading Period.

**Dividends** is the sum of:

- (i) all dividends received by the RGM on the DSH Shares during the period in which they were held by the RGM; and
  - (ii) interest on the dividends received from the date of each dividend.
- (d) In applying the formulae in clauses (a), (b) and (c) above:
- (i) DSH Shares purchased by an RGM include any DSH Shares issued to the RGM in the IPO, and the relevant purchase price is the subscription price paid for such DSH Shares;
  - (ii) a reference to a sale or purchase of DSH Shares is a reference to a sale or purchase for consideration or value;
  - (iii) if an RGM has engaged in multiple purchases and sales of DSH Shares in the Trading Period, in determining whether the RGM sold all or any part of a purchased parcel of DSH Shares, the Administrator shall adopt the “last in, first out” (LIFO) method, and assume that the first shares sold at any point in time are those that were purchased last by the RGM;
  - (iv) all brokerage, stamp duty and other transaction fees and costs are to be ignored in determining the purchase or sale price for DSH Shares.
- (e) In calculating Dividends for clause (c) above, a Registered Group Member will be deemed to have received a dividend of the Amount per DSH Share set out in the table below on the Paid Date set out in the table below if it held DSH Shares on the Record Date set out in the table below:

	<b>Record Date</b>	<b>Paid Date</b>	<b>Amount per DSH Share</b>
<b>First dividend</b>	5 September 2014	21 October 2014	\$0.08
<b>Second dividend</b>	12 March 2015	30 April 2015	\$0.07
<b>Third dividend</b>	31 August 2015	30 September 2015	\$0.05

- (f) If the total loss calculated using the formula set out in clause (a) above (after adding together the weighted average loss as calculated under clause (a) above for each parcel of DSH Shares purchased by the Registered Group Member) is negative, the Registered Group Member’s loss shall be deemed to be nil.
- (g) Where the circumstances of a Registered Group Member do not fall precisely within the terms of this clause 2, or the Claim Data does not include all information required to calculate a Loss, the Administrator may make such assumptions, or adjustments to the calculation, as he sees fit in order that the calculation of the Registered Group Member’s losses is made consistently with the purpose, intent and spirit of this clause 2.

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### **3 Interest rates**

The following interest rates shall be used in the calculation of interest pursuant to the Loss Assessment Formula. The dates in the table below are inclusive.

<b>From:</b>	<b>To:</b>	<b>Interest rate:</b>
14 November 2013	31 December 2013	6.75%
1 January 2014	30 June 2015	6.50%
1 July 2015	30 June 2016	6.00%
1 July 2016	31 December 2016	5.75%
1 January 2017	30 June 2019	5.50%
1 July 2019	31 December 2019	5.25%
1 January 2020	30 June 2020	4.75%
1 July 2020	7 December 2020	4.25%

## Schedule 2 – Share prices for inflation calculations

Date	Share price	Date	Share price	Date	Share price
On and before					
4-Dec-13	\$0.92	18-Aug-14	\$0.83	28-Apr-15	\$1.00
5-Dec-13	\$0.93	19-Aug-14	\$1.17	29-Apr-15	\$1.00
6-Dec-13	\$0.93	20-Aug-14	\$1.21	30-Apr-15	\$1.03
9-Dec-13	\$0.96	21-Aug-14	\$1.21	1-May-15	\$1.02
10-Dec-13	\$0.94	22-Aug-14	\$1.22	4-May-15	\$1.03
11-Dec-13	\$0.94	25-Aug-14	\$1.21	5-May-15	\$1.03
12-Dec-13	\$0.91	26-Aug-14	\$1.23	6-May-15	\$1.02
13-Dec-13	\$0.90	27-Aug-14	\$1.24	7-May-15	\$1.04
16-Dec-13	\$0.88	28-Aug-14	\$1.23	8-May-15	\$1.04
17-Dec-13	\$0.86	29-Aug-14	\$1.24	11-May-15	\$1.06
18-Dec-13	\$0.85	1-Sep-14	\$1.21	12-May-15	\$1.06
19-Dec-13	\$0.87	2-Sep-14	\$1.21	13-May-15	\$1.09
20-Dec-13	\$0.83	3-Sep-14	\$1.17	14-May-15	\$1.12
23-Dec-13	\$0.86	4-Sep-14	\$1.18	15-May-15	\$1.10
24-Dec-13	\$0.87	5-Sep-14	\$1.17	18-May-15	\$1.07
27-Dec-13	\$0.86	8-Sep-14	\$1.18	19-May-15	\$1.08
30-Dec-13	\$0.87	9-Sep-14	\$1.18	20-May-15	\$1.08
31-Dec-13	\$0.87	10-Sep-14	\$1.20	21-May-15	\$1.10
2-Jan-14	\$0.89	11-Sep-14	\$1.19	22-May-15	\$1.07
3-Jan-14	\$0.92	12-Sep-14	\$1.18	25-May-15	\$1.10
6-Jan-14	\$0.92	15-Sep-14	\$1.19	26-May-15	\$1.10
7-Jan-14	\$0.96	16-Sep-14	\$1.16	27-May-15	\$1.09
8-Jan-14	\$0.97	17-Sep-14	\$1.17	28-May-15	\$1.09
9-Jan-14	\$0.97	18-Sep-14	\$1.18	29-May-15	\$1.09
10-Jan-14	\$1.00	19-Sep-14	\$1.19	1-Jun-15	\$1.09
13-Jan-14	\$1.00	22-Sep-14	\$1.18	2-Jun-15	\$1.09
14-Jan-14	\$0.99	23-Sep-14	\$1.17	3-Jun-15	\$1.09
15-Jan-14	\$0.99	24-Sep-14	\$1.16	4-Jun-15	\$1.06
16-Jan-14	\$0.98	25-Sep-14	\$1.14	5-Jun-15	\$1.06
17-Jan-14	\$0.97	26-Sep-14	\$1.14	9-Jun-15	\$1.05
20-Jan-14	\$0.96	29-Sep-14	\$1.14	10-Jun-15	\$1.05
21-Jan-14	\$0.96	30-Sep-14	\$1.14	11-Jun-15	\$1.09
22-Jan-14	\$0.97	1-Oct-14	\$1.13	12-Jun-15	\$1.09
23-Jan-14	\$0.94	2-Oct-14	\$1.13	15-Jun-15	\$1.08
24-Jan-14	\$0.91	3-Oct-14	\$1.09	16-Jun-15	\$1.09
28-Jan-14	\$0.92	6-Oct-14	\$1.08	17-Jun-15	\$1.07
29-Jan-14	\$0.93	7-Oct-14	\$1.10	18-Jun-15	\$1.06
30-Jan-14	\$0.93	8-Oct-14	\$1.09	19-Jun-15	\$1.10
31-Jan-14	\$0.93	9-Oct-14	\$1.09	22-Jun-15	\$1.07
3-Feb-14	\$0.91	10-Oct-14	\$1.05	23-Jun-15	\$1.08
4-Feb-14	\$0.89	13-Oct-14	\$1.04	24-Jun-15	\$1.06
5-Feb-14	\$0.88	14-Oct-14	\$1.09	25-Jun-15	\$1.03
6-Feb-14	\$0.91	15-Oct-14	\$1.11	26-Jun-15	\$1.02
7-Feb-14	\$0.91	16-Oct-14	\$1.09	29-Jun-15	\$1.00
10-Feb-14	\$0.91	17-Oct-14	\$1.07	30-Jun-15	\$1.03
11-Feb-14	\$0.91	20-Oct-14	\$1.09	1-Jul-15	\$1.04
12-Feb-14	\$0.91	21-Oct-14	\$1.04	2-Jul-15	\$1.04
13-Feb-14	\$0.90	22-Oct-14	\$1.08	3-Jul-15	\$1.02
14-Feb-14	\$0.88	23-Oct-14	\$1.07	6-Jul-15	\$1.00
17-Feb-14	\$0.89	24-Oct-14	\$1.10	7-Jul-15	\$1.01

Date	Share price	Date	Share price	Date	Share price
18-Feb-14	\$0.89	27-Oct-14	\$1.09	8-Jul-15	\$0.99
19-Feb-14	\$0.81	28-Oct-14	\$1.09	9-Jul-15	\$1.00
20-Feb-14	\$0.84	29-Oct-14	\$1.14	10-Jul-15	\$1.01
21-Feb-14	\$0.86	30-Oct-14	\$1.13	13-Jul-15	\$1.00
24-Feb-14	\$0.85	31-Oct-14	\$1.14	14-Jul-15	\$1.00
25-Feb-14	\$0.84	3-Nov-14	\$1.13	15-Jul-15	\$1.01
26-Feb-14	\$0.84	4-Nov-14	\$1.13	16-Jul-15	\$1.02
27-Feb-14	\$0.83	5-Nov-14	\$1.09	17-Jul-15	\$1.01
28-Feb-14	\$0.85	6-Nov-14	\$1.14	20-Jul-15	\$1.01
3-Mar-14	\$0.81	7-Nov-14	\$1.13	21-Jul-15	\$1.04
4-Mar-14	\$0.83	10-Nov-14	\$1.16	22-Jul-15	\$1.03
5-Mar-14	\$0.83	11-Nov-14	\$1.14	23-Jul-15	\$1.05
6-Mar-14	\$0.83	12-Nov-14	\$1.16	24-Jul-15	\$0.99
7-Mar-14	\$0.83	13-Nov-14	\$1.14	27-Jul-15	\$0.99
10-Mar-14	\$0.83	14-Nov-14	\$1.13	28-Jul-15	\$0.98
11-Mar-14	\$0.86	17-Nov-14	\$1.16	29-Jul-15	\$0.98
12-Mar-14	\$0.88	18-Nov-14	\$1.17	30-Jul-15	\$0.98
13-Mar-14	\$0.88	19-Nov-14	\$1.16	31-Jul-15	\$0.99
14-Mar-14	\$0.88	20-Nov-14	\$1.17	3-Aug-15	\$0.98
17-Mar-14	\$0.86	21-Nov-14	\$1.14	4-Aug-15	\$0.98
18-Mar-14	\$0.88	24-Nov-14	\$1.15	5-Aug-15	\$0.98
19-Mar-14	\$0.87	25-Nov-14	\$1.14	6-Aug-15	\$0.97
20-Mar-14	\$0.88	26-Nov-14	\$1.16	7-Aug-15	\$0.95
21-Mar-14	\$0.86	27-Nov-14	\$1.17	10-Aug-15	\$0.96
24-Mar-14	\$0.88	28-Nov-14	\$1.16	11-Aug-15	\$1.00
25-Mar-14	\$0.88	1-Dec-14	\$1.14	12-Aug-15	\$0.99
26-Mar-14	\$0.91	2-Dec-14	\$1.13	13-Aug-15	\$1.00
27-Mar-14	\$0.92	3-Dec-14	\$1.14	14-Aug-15	\$1.00
28-Mar-14	\$0.93	4-Dec-14	\$1.14	17-Aug-15	\$0.99
31-Mar-14	\$0.91	5-Dec-14	\$1.10	18-Aug-15	\$0.60
1-Apr-14	\$0.91	8-Dec-14	\$1.10	19-Aug-15	\$0.60
2-Apr-14	\$0.90	9-Dec-14	\$1.09	20-Aug-15	\$0.61
3-Apr-14	\$0.91	10-Dec-14	\$1.10	21-Aug-15	\$0.59
4-Apr-14	\$0.90	11-Dec-14	\$1.10	24-Aug-15	\$0.57
7-Apr-14	\$0.90	12-Dec-14	\$1.10	25-Aug-15	\$0.60
8-Apr-14	\$0.90	15-Dec-14	\$1.09	26-Aug-15	\$0.61
9-Apr-14	\$0.89	16-Dec-14	\$1.06	27-Aug-15	\$0.54
10-Apr-14	\$0.88	17-Dec-14	\$1.08	28-Aug-15	\$0.52
11-Apr-14	\$0.90	18-Dec-14	\$1.09	31-Aug-15	\$0.50
14-Apr-14	\$0.90	19-Dec-14	\$1.09	1-Sep-15	\$0.48
15-Apr-14	\$0.91	22-Dec-14	\$1.07	2-Sep-15	\$0.46
16-Apr-14	\$0.92	23-Dec-14	\$1.08	3-Sep-15	\$0.46
17-Apr-14	\$0.93	24-Dec-14	\$1.07	4-Sep-15	\$0.45
22-Apr-14	\$0.93	29-Dec-14	\$1.07	7-Sep-15	\$0.45
23-Apr-14	\$0.92	30-Dec-14	\$1.09	8-Sep-15	\$0.44
24-Apr-14	\$0.94	31-Dec-14	\$1.08	9-Sep-15	\$0.46
28-Apr-14	\$0.91	2-Jan-15	\$1.09	10-Sep-15	\$0.46
29-Apr-14	\$0.90	5-Jan-15	\$1.09	11-Sep-15	\$0.46
30-Apr-14	\$0.90	6-Jan-15	\$1.06	14-Sep-15	\$0.46
1-May-14	\$0.89	7-Jan-15	\$1.04	15-Sep-15	\$0.44
2-May-14	\$0.91	8-Jan-15	\$1.07	16-Sep-15	\$0.45
5-May-14	\$0.91	9-Jan-15	\$1.08	17-Sep-15	\$0.44
6-May-14	\$0.92	12-Jan-15	\$1.10	18-Sep-15	\$0.43
7-May-14	\$0.93	13-Jan-15	\$1.09	21-Sep-15	\$0.43

Date	Share price	Date	Share price	Date	Share price
8-May-14	\$0.91	14-Jan-15	\$1.09	22-Sep-15	\$0.44
9-May-14	\$0.90	15-Jan-15	\$1.11	23-Sep-15	\$0.43
12-May-14	\$0.89	16-Jan-15	\$1.07	24-Sep-15	\$0.44
13-May-14	\$0.87	19-Jan-15	\$1.06	25-Sep-15	\$0.44
14-May-14	\$0.88	20-Jan-15	\$1.05	28-Sep-15	\$0.44
15-May-14	\$0.90	21-Jan-15	\$1.05	29-Sep-15	\$0.42
16-May-14	\$0.90	22-Jan-15	\$1.05	30-Sep-15	\$0.43
19-May-14	\$0.88	23-Jan-15	\$1.07	1-Oct-15	\$0.44
20-May-14	\$0.90	27-Jan-15	\$1.05	2-Oct-15	\$0.44
21-May-14	\$0.89	28-Jan-15	\$1.05	5-Oct-15	\$0.45
22-May-14	\$0.89	29-Jan-15	\$1.05	6-Oct-15	\$0.43
23-May-14	\$0.89	30-Jan-15	\$1.06	7-Oct-15	\$0.45
26-May-14	\$0.90	2-Feb-15	\$1.06	8-Oct-15	\$0.48
27-May-14	\$0.88	3-Feb-15	\$1.07	9-Oct-15	\$0.48
28-May-14	\$0.89	4-Feb-15	\$1.07	12-Oct-15	\$0.46
29-May-14	\$0.90	5-Feb-15	\$1.11	13-Oct-15	\$0.49
30-May-14	\$0.86	6-Feb-15	\$1.11	14-Oct-15	\$0.48
2-Jun-14	\$0.85	9-Feb-15	\$1.12	15-Oct-15	\$0.46
3-Jun-14	\$0.83	10-Feb-15	\$1.13	16-Oct-15	\$0.45
4-Jun-14	\$0.80	11-Feb-15	\$1.13	19-Oct-15	\$0.44
5-Jun-14	\$0.81	12-Feb-15	\$1.11	20-Oct-15	\$0.44
6-Jun-14	\$0.82	13-Feb-15	\$1.12	21-Oct-15	\$0.43
10-Jun-14	\$0.82	16-Feb-15	\$1.17	22-Oct-15	\$0.42
11-Jun-14	\$0.78	17-Feb-15	\$1.09	23-Oct-15	\$0.43
12-Jun-14	\$0.79	18-Feb-15	\$1.11	26-Oct-15	\$0.43
13-Jun-14	\$0.78	19-Feb-15	\$1.12	27-Oct-15	\$0.42
16-Jun-14	\$0.78	20-Feb-15	\$1.13	28-Oct-15	\$0.42
17-Jun-14	\$0.79	23-Feb-15	\$1.13	29-Oct-15	\$0.41
18-Jun-14	\$0.81	24-Feb-15	\$1.12	30-Oct-15	\$0.37
19-Jun-14	\$0.81	25-Feb-15	\$1.11	2-Nov-15	\$0.38
20-Jun-14	\$0.79	26-Feb-15	\$1.12	3-Nov-15	\$0.40
23-Jun-14	\$0.81	27-Feb-15	\$1.12	4-Nov-15	\$0.44
24-Jun-14	\$0.81	2-Mar-15	\$1.10	5-Nov-15	\$0.43
25-Jun-14	\$0.80	3-Mar-15	\$1.12	6-Nov-15	\$0.44
26-Jun-14	\$0.80	4-Mar-15	\$1.10	9-Nov-15	\$0.43
27-Jun-14	\$0.81	5-Mar-15	\$1.11	10-Nov-15	\$0.44
30-Jun-14	\$0.82	6-Mar-15	\$1.11	11-Nov-15	\$0.42
1-Jul-14	\$0.81	9-Mar-15	\$1.10	12-Nov-15	\$0.40
2-Jul-14	\$0.81	10-Mar-15	\$1.02	13-Nov-15	\$0.40
3-Jul-14	\$0.81	11-Mar-15	\$1.03	16-Nov-15	\$0.39
4-Jul-14	\$0.82	12-Mar-15	\$1.03	17-Nov-15	\$0.39
7-Jul-14	\$0.83	13-Mar-15	\$1.01	18-Nov-15	\$0.38
8-Jul-14	\$0.81	16-Mar-15	\$1.01	19-Nov-15	\$0.39
9-Jul-14	\$0.80	17-Mar-15	\$1.01	20-Nov-15	\$0.39
10-Jul-14	\$0.81	18-Mar-15	\$1.01	23-Nov-15	\$0.38
11-Jul-14	\$0.80	19-Mar-15	\$1.03	24-Nov-15	\$0.38
14-Jul-14	\$0.80	20-Mar-15	\$1.01	25-Nov-15	\$0.36
15-Jul-14	\$0.81	23-Mar-15	\$0.97	26-Nov-15	\$0.36
16-Jul-14	\$0.81	24-Mar-15	\$0.98	27-Nov-15	\$0.35
17-Jul-14	\$0.81	25-Mar-15	\$1.01	30-Nov-15	\$0.31
18-Jul-14	\$0.82	26-Mar-15	\$0.99	1-Dec-15	\$0.35
21-Jul-14	\$0.82	27-Mar-15	\$0.98	2-Dec-15	\$0.42
22-Jul-14	\$0.83	30-Mar-15	\$0.96	3-Dec-15	\$0.40
23-Jul-14	\$0.85	31-Mar-15	\$0.96	4-Dec-15	\$0.39

Date	Share price	Date	Share price	Date	Share price
24-Jul-14	\$0.83	1-Apr-15	\$0.97	7-Dec-15	\$0.37
25-Jul-14	\$0.84	2-Apr-15	\$0.99	8-Dec-15	\$0.34
28-Jul-14	\$0.84	7-Apr-15	\$0.99	9-Dec-15	\$0.37
29-Jul-14	\$0.85	8-Apr-15	\$0.99	10-Dec-15	\$0.37
30-Jul-14	\$0.85	9-Apr-15	\$1.01	11-Dec-15	\$0.37
31-Jul-14	\$0.84	10-Apr-15	\$1.01	14-Dec-15	\$0.35
1-Aug-14	\$0.82	13-Apr-15	\$1.01	15-Dec-15	\$0.35
4-Aug-14	\$0.82	14-Apr-15	\$1.00	16-Dec-15	\$0.35
5-Aug-14	\$0.83	15-Apr-15	\$0.99	17-Dec-15	\$0.37
6-Aug-14	\$0.82	16-Apr-15	\$0.99	18-Dec-15	\$0.35
7-Aug-14	\$0.83	17-Apr-15	\$0.97	21-Dec-15	\$0.35
8-Aug-14	\$0.83	20-Apr-15	\$0.97	22-Dec-15	\$0.35
11-Aug-14	\$0.81	21-Apr-15	\$0.99	23-Dec-15	\$0.36
12-Aug-14	\$0.81	22-Apr-15	\$0.99	24-Dec-15	\$0.36
13-Aug-14	\$0.79	23-Apr-15	\$0.98	29-Dec-15	\$0.36
14-Aug-14	\$0.83	24-Apr-15	\$1.00	30-Dec-15	\$0.37
15-Aug-14	\$0.82	27-Apr-15	\$1.00	31-Dec-15	\$0.36

### Schedule 3 – Hourly rates for Administration Costs incurred by FTI Consulting

<b>Position</b>	<b>Hourly rate (excluding GST)</b>
Senior Managing Director/Appointee	\$720
Managing Director	\$660
Senior Director	\$580
Director	\$520
Senior Consultant 2	\$470
Senior Consultant 1	\$430
Consultant 2	\$390
Consultant 1	\$360
Associate 2	\$335
Associate 1	\$300
Junior Associate	\$220
Administration 2	\$220
Administration 1	\$185
Junior Accountant	\$170



## Annexure 1 – Form of Settlement Notice

### SETTLEMENT NOTICE – DICK SMITH CLASS ACTIONS

**Mastoris & Anor v DSHE Holdings Limited & Ors – Supreme Court of New South Wales Case number 2017/294069**

**Findlay & Anor v DSHE Holdings Limited & Ors – Supreme Court of New South Wales Case number 2018/52431**

**Mastoris & Anor v Allianz Australia Insurance Limited & Ors – Supreme Court of New South Wales Case number 2017/209326**

**TO:** **[Name of Registered Group Member]**

You are receiving this Settlement Notice because you are a Registered Group Member pursuant to the Settlement Distribution Scheme (**SDS**) approved by the Court in the Dick Smith Class Actions and may be entitled to receive a share of the Settlement Sum.

Terms defined in the SDS have the same meaning when used in this Settlement Notice. A copy of the SDS can be obtained from <https://dshclaim.com.au/>.

The purpose of this Settlement Notice (provided pursuant to clause 3.2 of the SDS) is to provide you the Administrator's Assessment of the value of your Claim (called your **Loss**) and an estimate of your share of the Residual Settlement Sum (called your **Scheme Payment**). Your Loss and your Scheme Payment are calculated in accordance with the SDS.

**IMPORTANT: In order to be entitled to receive any Scheme Payment from the Residual Settlement Sum (if you are entitled to do so), you must follow the steps out below in this Settlement Notice to register for a payment and provide the information required by the Administrator by no later than [date]. Failure to register or provide the necessary information by that date may result in you losing any right to a Scheme Payment.**

#### Assessment of Loss

Your Loss is calculated by applying the Loss Assessment Formula to the data pertaining to you as provided by you (as the case may be) in the process of signing a funding agreement in respect of the Dick Smith Class Action, or registering your claims to be considered at mediation or in response to the Notice of Proposed Settlement of Class Actions issued in December 2020, and any additional information you have provided to the Administrator in response to a request for further information.

**On the information available to the Administrator, you may have suffered a Loss in the amount of [insert Assessment amount].**

The Loss calculations and Loss Assessment Formula used to calculate your Loss are shown in Schedule 1 and Schedule 2 of this Settlement Notice respectively.

### **Estimate of Scheme Payment**

The precise amount that will be payable to you is not yet known and cannot yet be accurately determined. Among other things, it will be affected by a number of factors which cannot yet be known precisely, including the Assessment of Loss for other Registered Group Members and the final amount of Administration Costs spent in administering the SDS.

However, based on our current estimates (of costs, interest earned, fees and charges, etc.), based on your Loss as calculated in Schedule 1, **we estimate your Scheme Payment is likely to be in the order of [insert Scheme Payment estimate].**

Your actual Scheme Payment may be less or more than the estimate above.

### **Next steps**

**If you wish to receive a Scheme Payment from the Residual Settlement Sum (should you be entitled to do so in accordance with the SDS), you must go to the Scheme Payment Registration Portal at <https://dshclaim.com.au/> and provide your details so that the Administrator can confirm your right to a Scheme Payment and, subsequently, make the Scheme Payment to you (if entitled).**

**You must complete this task by [date], otherwise you may lose any right to a Scheme Payment from the Residual Settlement Sum.**

You can also use the Scheme Payment Registration Portal to seek a review of the Administrator's calculation of your Loss should you consider that your Loss has been incorrectly calculated. The review process is explained in Schedule 3. Please note that, as set out in Schedule 3, there may be a cost consequence (and your Scheme Payment may be reduced) if the review does not cause the amount of your Loss to increase by more than 10%.

If you do not wish to receive a Scheme Payment from the Settlement Sum, you do not need to take any action (although you may receive further communications or reminders from the Administrator as a result). However, if you do not register to receive a Scheme Payment, you will not be able to pursue any claims against the defendants (or their related parties) of the kind made in the Dick Smith Class Actions (even if you have not registered to participate in the settlement).

If you have any queries, please visit the website at <https://dshclaim.com.au/>.

**Dated [date]**

**John Richard Park**

FTI Consulting (Australia) Pty Ltd

Administrator of the Dick Smith Class Actions Settlement Distribution Scheme

## Schedule 1: Loss Calculation

**[Insert Claim Data and Loss calculation]**

## Schedule 2: Loss Assessment Methodology

**[Reproduce Schedule 1 from SDS]**

## Schedule 3: Review rights

If, within 14 days of the date of this Settlement Notice, you notify the Administrator via the Scheme Payment Registration Portal of any error, slip or omission in the Settlement Notice (including in the calculation of your Assessment), the Administrator may, in his absolute discretion, issue to you an amended Settlement Notice (**Amended Settlement Notice**).

You shall be deemed to have accepted the accuracy of a Settlement Notice or Amended Settlement Notice issued to you by the Administrator unless, within 14 days of the date of the Settlement Notice or Amended Settlement Notice (as the case may be), you deliver to the Administrator via the Scheme Payment Registration Portal a written request for a review, together with:

- copies of all documents on which you rely for the purposes of the review;
- any statement of reasons for seeking the review, such statement not to exceed two typed A4 pages; and
- the alternative loss calculation on which you rely, calculated in accordance with the Loss Assessment Formula.

If you request a review of a Settlement Notice or an Amended Settlement Notice, the Administrator will review the request and copies of documents on which you rely for the purposes of the review and, if satisfied that the request discloses an error, slip or omission by the Administrator or any other administrative or clerical error, correct the notice to which the request relates.

If the outcome of a review is that the Assessment of your loss does not increase, or does not increase by more than 10%, over the amount set out in the Settlement Notice or Amended Settlement Notice (as the case may be), the Administrator may, in his absolute discretion, deduct the Administrator's costs (or estimated costs) of conducting the review from your Scheme Payment.