



13 March 2024

OPT OUT NOTICE
FEDERAL COURT OF AUSTRALIA

Aksesstoday Class Action – NSD917/2020

Why is this notice important?

1. A class action (the **Aksesstoday Class Action**) has been commenced in the Federal Court of Australia by Compumod Investments Pty Limited as trustee for the Compumod Pty Limited Staff Superannuation Fund (**Compumod**) against:
 - (a) Universal Equivalent Technology Limited (Formerly A.C.N. 603 323 182 Limited and Formerly Aksesstoday Limited) (**now deregistered**)
 - (b) PricewaterhouseCoopers Securities Limited (**PwCS**)
 - (c) Hardy (Underwriting Agencies) Limited, Managing Agent for and on behalf of Lloyd's Syndicate HDU 382
 - (d) Liberty Managing Agency Limited for and on behalf of Syndicate 4473
 - (e) Asta Managing Agency Ltd acting for and on behalf of Everest Syndicate 2786
 - (f) Arch Underwriting at Lloyd's Limited for and on behalf of Syndicate 2012
2. The Federal Court has ordered that this notice be published for the information of persons who are members of the class on whose behalf the action is brought and will 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.

What is a class action?

3. A class action is an action that is brought by one person ("**Applicant**") on his or her own behalf and on behalf of a class of people ("**class members**") against another person or persons ("**Respondents**") where the Applicant and the class members have similar claims against the Respondents.
4. 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.
5. Class members are "bound" by the 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 following trial, the Court will decide various factual and legal issues in respect of the claims made by the Applicant and class members. Unless those decisions are successfully appealed they bind the Applicant,

3449-4398-3147 v.1



class members and the Respondents. Importantly, if there are other proceedings between a class member and the Respondents, it is likely that neither side will be permitted to raise arguments in that proceeding 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 is likely to 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.
6. If you consider that you have claims against the Respondents which are based in 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).

What is this class action?

7. The Axesstoday class action is brought by the Applicant (Compumod) on its own behalf and on behalf of all persons who are "class members" as defined in the proceeding.
8. The Applicant alleges in the Third Further Amended Statement of Claim filed in the Federal Court (being proceedings entitled *Compumod Investments Pty Limited as trustee for the Compumod Pty Limited Staff Superannuation Fund v Universal Equivalent Technology Limited (formerly A.C.N. 603 323 182 Limited and formerly Axesstoday Limited) & Others, NSD917/2020*) that there were inadequacies in the offer documents for an issue of \$55 million of simple corporate bonds (**Bonds**) by Axesstoday Limited (**AXL**) that occurred in July 2018.
9. It is alleged in the proceedings that several months after the Bonds were issued, AXL was found to be in breach of one or more banking covenants under its main banking facility. It is also alleged that the implementation of a new Australian Accounting Standard (**AASB 9**) which, amongst other things, altered the requirements for the recognition of receivables, led to a breach of the arrears ratio covenant under the facility.
10. The directors of AXL appointed administrators in April 2019. A Deed of Company Arrangement was subsequently entered into, under which investors received a payment of approximately 27 cents in the dollar. A further payment of approximately 7 cents in the dollar to investors occurred in December 2022, leaving a significant shortfall on the investment.
11. The Applicant alleges that, in the relevant offer documents, AXL made misleading or deceptive statements and omitted information that was required to be disclosed. The information which the Applicant alleges ought to have been contained in the relevant offer documents is information concerning the likely potential effect of AASB 9 on the financial statements of AXL and its ability to comply with its banking covenants. AXL's conduct is alleged by the Applicant to have given rise to contraventions by AXL of the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*.
12. The Applicant further alleges that PwCS was involved in some of the alleged statutory contraventions by AXL. It also alleges that PwCS itself engaged in distinct misleading or deceptive conduct.



13. The Applicant is seeking recovery of the shortfall on the Bonds. As AXL is now deregistered, the Applicant is proceeding directly against the Underwriters of AXL's insurance policy standing in the place of AXL.
14. The Respondents to the class action are listed in paragraph 1 above. The Respondents do not admit the allegations and are defending the class action.

What is 'Opt Out'?

15. 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. In this case, you have elected to become a class member by entering into a Retainer Agreement with Hicksons Lawyers and a Litigation Funding Agreement with Therium Litigation Finance Atlas AFP IC in respect of the Axesstoday Class Action.
16. However, class members can still 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 "How can you opt out of the proceeding".

Are you a class member?

17. You are a class member if you have entered into a Retainer Agreement with Hicksons Lawyers and a Litigation Funding Agreement with Therium Litigation Finance Atlas AFP IC in respect of the Axesstoday Class Action.
18. If you are unsure whether or not you are a class member, you should contact Hicksons Lawyers on (02) 9293 5311 or email madison.walsh@hicksons.com.au or seek your own legal advice without delay.

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

19. 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 Hicksons Lawyers or other lawyers to do that work for you. A copy of the terms on which Hicksons Lawyers are acting in the class action may be obtained from them on the number shown below;
 - (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 Applicant 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 in the class action, you may be able to claim from the settlement amount without retaining a lawyer.

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

20. Unless you opt out, you will be bound by any settlement or judgment of the class action. If the class action is successful you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and class members, although 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

3449-4398-3147 v.1



not be able pursue the same claims and may not be able to pursue related claims against the Respondents in other legal proceedings.

WHAT CLASS MEMBERS NEED TO DO

How you can remain a class member?

21. If you wish to remain a class member there is **nothing you need to do** at the present time. The Applicant will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Applicant and the class members.

How you can opt out of the class action?

22. 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.
23. If you wish to opt out of the class action you must do so by completing a "Notice of opting out by class member" in the form annexed to this Notice (Form 21 of the Court's approved forms), 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 1 May 2024**, otherwise it will not be effective.
24. You should submit the Notice of opting out by class member if you qualify as a class member and you wish to opt out of the class action.
25. 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).

Where can you obtain copies of relevant documents?

26. Copies of relevant documents, including the application, the statement of claim, and the defence or defences, may be obtained by:
 - (a) downloading them from [Hicksons Lawyers - Axesstoday Limited Class Action](#);
 - (b) inspecting them between 9am and 5pm at one of the offices of Hicksons Lawyers, contact details for which are available from [Hicksons Lawyers](#) - or by calling (02) 9293 5311;
 - (c) by contacting a District Registry of the Federal Court (contact details are available www.fedcourt.gov.au) and paying the appropriate inspection fee.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Hicksons Lawyers on (02) 9293 5311 or email madison.walsh@hicksons.com.au or seek your own legal advice. You should not delay in making your decision.



Schedule of parties

No: NSD917/2020

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

Interested Person	ACN 603 303 126 PTY LTD
Third Respondent	HARDY (UNDERWRITING AGENCIES) LIMITED, MANAGING AGENT FOR AND ON BEHALF OF LLOYD'S SYNDICATE HDU 382
Fourth Respondent	LIBERTY MANAGING AGENCY LIMITED FOR AND ON BEHALF OF SYNDICATE 4473
Fifth Respondent	ASTA MANAGING AGENCY LTD ACTING FOR AND ON BEHALF OF EVEREST SYNDICATE 2786
Sixth Respondent	ARCH UNDERWRITING AT LLOYD'S LIMITED FOR AND ON BEHALF OF SYNDICATE 2012

CROSS CLAIM

Cross-Claimant	PRICEWATERHOUSECOOPERS SECURITIES LIMITED
Cross Respondent	UNIVERSAL EQUIVALENT TECHNOLOGY LIMITED (FORMERLY A.C.N. 603 323 182 LIMITED AND FORMERLY AXSESSTODAY LIMITED)



Schedule 1

Form 21
Rule 9.34

Opt out notice

No. NSD917 of 2020

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

**Compumod Investments Pty Limited as trustee for the Compumod Pty Limited Staff
Superannuation Fund**
Applicant

**Universal Equivalent Technology Limited (formerly A.C.N. 603 323 182 Limited and
formerly Axesstoday Limited) and others**
Respondents

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

[Name of group member], a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that [Name of group member] is opting out of the representative proceeding.

Filed on behalf of (name & role of party)	The Applicant
Prepared by (name of person/lawyer)	Chris Moore & Chloe Ellis
Law firm (if applicable)	Hicksons Lawyers
Tel	(02) 9293 5311
Fax	(02) 9264 4790
Email	chris.moore@hicksons.com.au & chloe.ellis@hicksons.com.au
Address for service (include state and postcode)	Hicksons Lawyers Level 24, 100 Barangaroo Avenue BARANGAROO NSW 2000

[Version 2 form approved 9/10/13]



Date: [eg 19 June 20..]

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Signed by [Name]
[Insert capacity eg group member / Lawyer
for the group member]