

BHP Class Action

Frequently Asked Questions and Responses

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Group Membership and Eligibility

1. Am I a group member?

Group members are defined as persons who, between 8 August 2012 and 9 November 2015 (inclusive) (**Claim Period**) acquired an interest in fully-paid up ordinary shares in:

- (a) BHP Billiton Limited (**BHP Ltd**), on the Australian Stock Exchange (**ASX**) and/or
- (b) BHP Billiton Plc (**BHP Plc**), on the London Stock Exchange (**LSE**); and/or
- (c) BHP Plc, on the Johannesburg Stock Exchange (**JSE**)

BHP Billiton Limited and BHP Billiton Plc changed their names to BHP Group Limited and BHP Group Plc, respectively, effective 19 November 2018.

However, please note, the following persons and entities are **not eligible to participate** in the BHP Class Action:

- (a) a related party, related body corporate, associated entity, or director or officer or close associate of BHP Ltd;
- (b) a Justice, Registrar, District Registrar or Deputy District Registrar of the Federal Court of Australia or the High Court of Australia; or
- (c) an officer or employee of Maurice Blackburn Lawyers or Phi Finney McDonald, or a legal representative engaged by Maurice Blackburn Lawyers or Phi Finney McDonald in this proceeding.

2. Am I a group member if I was or am a BHP Ltd employee?

If you are a current or former BHP Ltd employee, **you are a group member** if you fall within the definition in Question 1 above and **you have not been**, at any time from 8 August 2012:

- (a) a director or company secretary of BHP Ltd;
- (b) a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of BHP Ltd, or who has the capacity to affect significantly BHP Ltd's financial standing, or a person in accordance with whose instructions or wishes the directors of the BHP Ltd are accustomed to act; or
- (c) a director or secretary of a related body corporate of BHP Ltd.

3. Am I a group member if I acquired shares in BHP Ltd or BHP Plc other than on ASX, LSE or JSE?

Some BHP Ltd and BHP Plc shareholders acquired shares other than by trading on the ASX, LSE or JSE – for example by trading on other platforms such as Chi-X. There is currently a dispute between the parties whether shareholders who acquired shares only on other platforms are group members.

On 3 November 2023, the Federal Court of Australia delivered judgment in *Impiombato v BHP Group Limited (No 4)* [2023] FCA 1354, interpreting the definition of Group Members as only including persons who, during the Claim Period, acquired shares in BHP Ltd through trading on the ASX; and/or in BHP

Plc through trading on the LSE or JSE. This interpretation, if correct, would mean that persons who only purchased shares on other trading platforms are not Group Members.

The Joint Applicants sought to appeal this decision and have also filed an application seeking to amend the Group Member definition to include persons who acquired shares on platforms other than the ASX, LSE or JSE. These applications have not yet been determined.

Therefore, the present position is:

- (a) If, during the Claim Period, you acquired at least some shares in BHP Ltd by trading on the ASX or in BHP Plc by trading on the LSE or JSE – you **are** a group member;
- (b) If, during the Claim Period, you acquired shares in BHP Ltd or BHP Plc only by trading on other platforms, or you do not know which platforms you acquired your shares on, you **may** be a group member, depending on resolution of the dispute.

Regardless of the platform upon which you acquired shares in BHP Ltd or BHP Plc during the Claim Period, you should read the opt-out and registration notice carefully as it may affect your rights.

If you wish to participate in the BHP Class Action, you should register, even if you only acquired shares on other trading platforms. If you register and information about the trading platform used for your share acquisitions is required, you will be contacted by either Maurice Blackburn or Phi Finney McDonald at the appropriate time.

4. Am I eligible to participate if I did not suffer any financial loss?

As the determination of loss or damage is a matter for expert evidence and the Court, group members do not need to establish loss or damage at this stage of the proceeding to participate.

If you acquired an interest in BHP Ltd and/or BHP Plc shares during the Claim Period, you should still register even if you believe you did not suffer any financial loss.

5. I have not sold my shares. Am I a group member?

Yes, if you acquired the shares during the Claim Period. You do not need to have sold your shares to be a group member.

6. I have sold my shares. Am I a group member?

Yes, if you acquired the shares during the Claim Period. You do not need to have retained your BHP Ltd and/or BHP Plc shares to be a group member.

For the purpose of loss assessments, shares sold between 8 August 2012 and 30 November 2015 (inclusive) may be considered in the calculation. This will be a matter for expert evidence and the Court. That does not affect your status as a group member for present purposes.

7. Am I eligible if I received shares through a dividend reinvestment plan (DRP)?

You are still eligible if you received shares through a dividend reinvestment plan, so long as you acquired the shares during the Claim Period.

For the purpose of any assessment of recoverable loss, shares acquired under a DRP may be treated differently to other share acquisitions. This will be a matter for the Court to determine. That does not affect your status as a group member.

8. Group member has passed away. Who can register?

The estate of the group member may elect to register on their behalf by completing the online registration process through the webpage <https://www.bhpclassaction.com>.

The executor of the estate should complete and submit the online registration. When completing the registration, the executor will be able to indicate that they are registering as executor of the estate.

9. My shares were bequeathed to me. Am I a group member?

If your only interest in BHP Ltd and/or BHP Plc shares was because the shares were inherited or gifted to you, you are not a group member. This is because you did not pay money or other consideration in order to acquire or purchase the interest in those shares, and therefore cannot establish that you suffered loss or damage by paying too much for those shares.

However, if you were bequeathed or gifted some BHP Ltd and/or BHP Plc shares and you also separately acquired an interest in other BHP Ltd and/or BHP Plc shares during the Claim Period, including via a dividend reinvestment scheme (DRP), then you are a group member as a result of the other acquisition(s) of shares.

Registration

10. Why do I need to register?

You need to register if you wish to obtain compensation by participating in any settlement reached before final judgment.

This is because, if a settlement is reached before final judgment, the Joint Applicants may apply to the Court for an order that group members who neither opted out nor registered (i.e. “do nothing”) by the Registration Deadline will be bound by any settlement but will not be able to seek any benefit under that settlement.

The online portal to submit your registration is accessible through the webpage <https://www.bhpclassaction.com>.

11. What is the Registration Deadline?

You must register your participation in the BHP Class Action by **4.00pm (AEDT) on 31 May 2024**.

12. How do I register?

To register your participation in the BHP Class Action by 4:00pm (AEDT) on 31 May 2024, please complete the online registration portal accessible through the webpage <https://www.bhpclassaction.com>. Information submitted will be used only for the purpose of Registration in the BHP Class Action, and for no other purpose.

Alternatively, you may register your participation by entering into:

- (a) a litigation funding agreement with G&E KTMC Funding, LLC by, 4:00pm (AEDT) on 31 May 2024. A litigation funding agreement is available on request by emailing: enquiries@bhpclassaction.com.

or

(b) a retainer and costs agreement with Maurice Blackburn, available on request by emailing: enquiries@bhpclassaction.com.

13. Do I need to register if I already entered into a litigation funding agreement or costs agreement?

No. If you have already entered into a litigation funding agreement with G&E KTMC Funding LLC, or executed a conditional legal costs agreement with Maurice Blackburn, you are deemed to have already registered to participate in the BHP Class Action and do not have to take any further steps to register your claim.

14. How can I confirm registration?

Once you have completed the online registration process through the webpage, a message should appear in your browser confirming that the submission has been accepted. You will also separately be sent an email to your nominated email address with confirmation of acceptance of the submission and a summary of your registration in PDF. If you do not see the confirmation, please check your spam folder. If you still do not see the confirmation, please re-submit the information.

15. I need to register multiple claims on behalf of several claimants. What should I do?

If you are authorised to act on behalf of more than one BHP Ltd and/or BHP Plc shareholder or person with a beneficial interest, please complete the online registration process separately for each. You should receive a separate confirmation of submission for each claim registered. Please note a single claim can be registered where the shares were purchased by or on behalf of a single superannuation fund or trust (i.e. it is not necessary to register separate claims for each beneficiary of the superannuation fund or trust).

16. What are the legal implications of registering?

If you register for the BHP Class Action, you may be eligible to receive compensation as part of any settlement reached before final judgment (provided that it is approved by the Court and you satisfy any eligibility requirements).

If you register and do not opt out of the BHP Class Action you will also be bound by any resolution of the class action. Therefore, you will not be permitted to bring any future claims related to the subject matter litigated in the BHP Class Action.

17. Does it cost anything to register and to participate in the BHP Class Action? Can I end up out of pocket if I register?

It does not cost anything to register and you will not end up out-of-pocket by registering to participate in BHP Class Action.

Whether there is any cost associated with participation depends on the outcome of the class action.

There are two possible outcomes for the class action.

One possible outcome is that the class action fails – that is, it does not result in a judgment or settlement payable by BHP Ltd. In that case, you will not be liable to pay any amount in respect of the class action.

The other possible outcome is that the class action succeeds – that is, it results in a judgment or settlement payable by BHP Ltd, and you recover compensation. In that case, you may be required to make a contribution from that compensation towards the legal and funding costs of running the case (see question 18 below).

18. If the BHP Class Action is successful, what would be the costs I need to pay?

In class actions, any costs have to be approved by the Court before they can be deducted from any compensation otherwise payable to group members. Until and unless such order is made, it is not possible to be definitive about the costs of successful claims. However, these costs will never exceed compensation and therefore you will not end up out of pocket.

Some group members have entered into litigation funding agreements with G&E KTMC. You can do likewise if you wish. Under the terms of its litigation funding agreements and subject to Court order, G&E KTMC will be entitled to recover:

- (a) Phi Finney McDonald's legal costs, disbursements and other litigation expenses;
- (b) costs and premiums paid or payable under the after-the-event insurance arrangements procured for the BHP Class Action;
- (c) eighteen percent (18%) of any compensation to which group members who have entered into the G&E KTMC litigation funding agreement become entitled, after the deduction of the amounts described in subparagraphs (a) and (b) above, as commission for funding the BHP Class Action.

Some group members have entered into a retainer and costs agreement with Maurice Blackburn. You can do likewise if you wish. Under the terms of the retainer and costs agreement, if the class action is successful, Maurice Blackburn will be entitled to recover its legal costs together with a 6.25% uplift on those costs.

If compensation is recovered for group members, one of the G&E KTMC, Maurice Blackburn or the Joint Applicants will seek an order from the Court that G&E KTMC's and Maurice Blackburn's entitlements (as outlined above) be paid out of the total amount recovered for all group members.

The effect of such an order would be to share the liability for payment of G&E KTMC's and Maurice Blackburn's entitlements on a pro rata basis between all group members who have benefited from the action, so that all registered group members are in the same position, regardless of whether they have entered into a litigation funding agreement with G&E KTMC, a retainer and costs agreement with Maurice Blackburn or have registered by completing the online registration portal.

These costs will never exceed the amount of compensation to which you may otherwise become entitled.

The Court will assess whether the costs proposed to be deducted from any compensation are fair and reasonable. You will be given a notice prior to that assessment informing you of the amount which is proposed to be deducted, and given an opportunity to tell the Court if you agree or disagree with what is proposed.

19. Will I be entitled to compensation, and if so, when and how much?

It is too early to answer this question. If the class action results in a judgment against BHP Ltd, your entitlement to compensation will be determined by the Court. If the class action results in a settlement, your entitlement will be determined as part of the settlement. Registering does not guarantee that you will receive compensation. It gives you the opportunity to have your entitlements determined as part of the settlement.

Class action settlements must be approved by the Court as fair and reasonable, including as to any amounts payable to the litigation funder G&E KTMC and for legal costs, and the manner in which settlement proceeds are distributed amongst participating group members.

20. What happens if I do not respond to the Opt-Out and Registration Notice?

If a settlement is reached before final judgment, the Joint Applicants may apply to the Court as part of the settlement approval application for Court approval, for an order that group members who neither opted out nor registered (i.e. “do nothing”) will be bound by the settlement but will not be able to seek any benefit under the settlement.

If you do not register, and do not opt out of the class action, you will remain an unregistered group member but, if the Court makes the order referred to above, you will likely not be able to receive a share of any settlement monies resulting from a settlement reached between the parties in the BHP Class Action before final judgment.

Further, you will be bound by the terms of the settlement including any releases (despite not being eligible to participate in the settlement). This means that your right to bring a claim against BHP Ltd (and potentially its related entities and officers) for matters related to those canvassed in the BHP Class Action will be extinguished.

If there is no settlement prior to a final judgment being made by the Court, you will be bound by that final judgment. You will be entitled to obtain compensation ordered by the Court in the event that the Court finds in favour of the Joint Applicants and group members and you satisfy any eligibility criteria for compensation determined by the Court.

If the BHP Class Action is unsuccessful, or it is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceeding, unless you choose to opt out of this proceeding prior to the 31 May 2024 deadline.

If you would like to participate in any settlement of the BHP Class Action, you should register your participation by completing the online registration portal accessible through the webpage <https://www.bhpclassaction.com>.

21. What kind information do you require to register?

During the online registration process, you will be asked to provide information about your BHP Ltd and/or BHP Plc share trading history. Details requested will include:

- the full name of the registered owner and any relevant Holder Identification Number (HIN) or Security Reference Number (SRN) or equivalent reference number in respect of BHP Ltd or BHP Plc securities;
- the number of BHP Ltd or BHP Plc securities held at the close of trade on 7 August 2012;
- details of the acquisition(s) of BHP Ltd or BHP Plc securities between 8 August 2012 and 30 November 2015 (inclusive), if available, including date of acquisition(s), quantity acquired and the price at each acquisition;
- details of the sale(s) and/or disposal(s) of BHP Ltd or BHP Plc securities between 8 August 2012 and 30 November 2015 (inclusive), if available, including date of sale(s)/disposal(s), quantity sold/disposed and the price at each sale/disposal.

We recommend that you have with you a Transaction History Statement (or similar document) while completing the online registration.

22. Why are you asking for details of shares trades up to 30 November 2015, if the Claim Period is up to 9 November 2015?

The way that loss is calculated will depend on expert evidence and any findings of the Court and it is possible that share trades in the period between 9 November 2015 to 30 November 2015 (inclusive) will become relevant. If that occurs, having this information will assist in calculating the loss suffered by eligible group members.

23. What is my HIN Number?

A Holder Identification Number (HIN) is a unique number that identifies you as a CHESS sponsored shareholder with a broker. A HIN usually starts with the letter "X" followed by ten numbers (e.g. X0001234567).

You can find the HIN/SRN number on your trade confirmation statement. It will either be 10 or 11 characters in length. If it is 11 characters in length, the HIN or SRN begins with the letter i, n or x. The remaining 10 characters are numbers. For example, i0012345678, n0012345678, x0012345678.

If you have not retained your holding statement(s), you can request this number from your financial advisor, stockbroker, CHESS Sponsor, Issuer Sponsor, or BHP Group's share registry, Computershare.

24. What are my options if I can't find details of my share trades or holdings?

You can request confirmation of your holdings from BHP Group's share registry, Computershare. To do this, go to <https://www-au.computershare.com/Investor/#Home>.

Please ensure you have your supporting documentation evidencing your share transactions in BHP Ltd and/or BHP Plc securities before you complete the online registration portal.

25. I am experiencing issues registering

Please make sure you have followed the instructions on the registration portal. If you have technical issues, please attempt to register using a different web browser.

If you are still experiencing issues with your registration, please email enquiries@bhpclassaction.com so we can arrange further assistance for you.

26. Am I required to send you supporting documents?

Not at the moment. If we need to obtain documents or attempt to verify any information, we will contact you.

27. I want to change the details I gave when I registered, how can I update my records?

Please send an email to enquiries@bhpclassaction.com detailing the required changes to your registration information. Please ensure the name of the claimant and the claimant's registration reference number is included in the subject line of the email.

Opt out

28. What happens if I opt out of the BHP Class Action?

If you choose to opt out of the class action, then, after the Opt Out Deadline (which is the same as the Registration Deadline):

- (a) you will no longer be a group member in the BHP Class Action;
- (b) you will not be entitled to any benefit that ultimately is obtained on behalf of group members in the BHP Class Action, whether by way of settlement or Court judgment; and
- (c) you will preserve your right to pursue a separate claim against BHP Ltd in relation to the matters the subject of the BHP Class Action, if you so choose; however
- (d) because there are time limits in which to commence proceedings to recover any loss and damage you may have suffered, if you wish to pursue a separate claim against BHP Ltd, you should seek legal advice as soon as possible regarding the amount of time available to you in which to commence a proceeding.

29. I wish to opt out

If you do not want to remain a group member in the BHP Class Action, you can opt out by the Opt Out Deadline, which is **4:00pm (AEDT) on 31 May 2024**.

You can opt out of the proceeding by completing an Opt Out form located on the last page of the Notice that you will have received.

If you choose to opt out, Opt Out forms must be returned directly to the Victorian District Registry of the Federal Court of Australia:

- (a) by post to:

Owen Dixon Commonwealth Law Courts Building,
305 William Street
Melbourne VIC 3000

- (b) by email at vicreg@fedcourt.gov.au

Further information regarding completion of the Opt Out form can be found in the Opt Out Notice.

Other

30. How did you get my details to send me the notices?

Please note that the parties to the class action or their lawyers do not have a list of group members. You were posted the opt-out and registration notice or received an email from the share registry for BHP Ltd and/or BHP Plc containing a link to the opt-out and registration notice because your mailing or email address was recorded on the registry.

31. Will my name, contact details and trading information be shared outside of Maurice Blackburn Lawyers, Phi Finney McDonald or the litigation funder G&E KTMC?

Subject to Court order, group member names and contact details will not be shared further and will be held in confidence.

The Court has ordered the details of group members trading information be provided on a de-identified basis to BHP Ltd. This means a unique identification number will be provided for each group member and the information provided to BHP will not include a group member's name or contact details.

The Court has also ordered that the de-identified trading information to be provided to BHP, is to be kept confidential to BHP's legal advisors, those officers and employees of BHP who have the conduct of the BHP class action on behalf of BHP and experts retained by BHP in the class action.

For further information about the collection and management of personal information of group members please refer to:

- (a) Maurice Blackburn Privacy and Collection Statement: <https://www.mauriceblackburn.com.au/about/privacy>; and
- (b) Phi Finney McDonald Privacy Policy: <https://phifinneymcdonald.com/privacy-policy/>

32. My question has not been answered. Can I speak to a lawyer?

Because of the large number of shareholders who would have received the opt out and registration notice, we cannot guarantee a timely response to a telephone enquiry. If you have a question about registration or opt out, that is not addressed above, please email enquiries@bhpclassaction.com.

Please note that, at this stage, we cannot provide assistance with questions other than regarding registration and opt out processes.