



GETSWIFT CLASS ACTION

**THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY
THE FEDERAL COURT OF AUSTRALIA**

This notice contains information about:

1. changes to the funding arrangements for the GetSwift Class Action; and
2. the outcome of the mediation between the parties held in February 2020.

You do not need to do anything in response to this notice. It is for your information only.

Important information

1. You have received this notice because it is likely that you are a group member in the shareholder class action against GetSwift Limited, identified as *Webb v GetSwift Limited & Anor* NSD580 of 2019 (**GetSwift Class Action**)
2. This is not a scam. You can check (and get copies of relevant documents) at Phi Finney McDonald's website at <https://phifinneymcdonald.com/gsw>. Phi Finney McDonald are the solicitors for Mr Raffaele Webb (the **Lead Applicant**).
3. If you have any questions about anything in this notice, you can contact Phi Finney McDonald at enquiries@phifinneymcdonald.com. If you do not want to contact Phi Finney McDonald, you can seek legal advice from a solicitor you choose.
4. This notice has been sent to you based on the contact details held by GetSwift's share registry operator, Computershare Investor Services. If your contact details change, please notify Computershare by calling 1300 850 505.
5. This is the third notice sent to group members in the GetSwift Class Action:
 - a. The **First Notice**, in February 2019, contained information about group members' right to opt-out of the proceeding and funding arrangements for the proceeding.
 - b. The **Second Notice**, in October 2019, was about group members' right to register their claims to benefit from any settlement of the proceeding reached at or shortly after the mediation in February 2020.

You can view these notices at <https://phifinneymcdonald.com/gsw>.



A. THE FUNDING ARRANGEMENTS

1. In early 2020, the company funding the GetSwift Class Action changed from Therium Litigation Finance (Australia) Ltd, to Therium Litigation Finance A IC. Both companies are subsidiaries of Therium Capital Management Limited, and are referred to together in this notice as **Therium**. This change has no effect on the funding arrangements for the GetSwift Class Action. If you have any questions about this change you can contact Phi Finney McDonald.
2. As set out in the First Notice, in June 2018, the Court made an order that:
 - a. Therium would fund the GetSwift Class Action, which included paying the Lead Applicant's legal costs, and indemnifying the Lead Applicant against any adverse costs order in favour of the Respondents if the GetSwift Class Action fails; and
 - b. if the GetSwift Class Action had a successful outcome, either through a settlement or by winning at trial, then, in exchange for funding the GetSwift Class action, Therium would recover its costs and receive a commission payment from any settlement sum or judgment in favour of the Lead Applicant and group members. If the GetSwift Class Action fails, then Therium would not get its costs back, or any commission.
3. The order set out above is called a "common fund order".
4. However, in December 2019, the High Court of Australia ruled that common fund orders made before any settlement is reached or judgment is delivered, are invalid. After that ruling, the Federal Court revoked the common fund order in the GetSwift Class Action.
5. This meant that Therium's entitlement to its commission (if there is a successful outcome) was not secure. So Therium was taking on the risk of the case without any guarantee that it would recover its costs or receive a commission at the end.
6. To address this, Therium has agreed to continue to fund the case on the same terms as under the common fund order, on the condition that the Lead Applicant applies at the end of the proceeding – after a settlement or judgment – for Therium to recover its costs and receive its commission out of the judgment or settlement. Therium's commission rate will be the same as under the common fund order, the terms of which are summarised in the First Notice.
7. Importantly for you, this does not impact your risk or entitlements in the case. It is simply a change in the mechanism for Therium to recover its costs and receive its funding commission, so that Therium will continue to fund the GetSwift Class Action.
8. As has always been the case, you will not be liable to pay costs out of your pocket. The costs of currently running the proceeding are covered by Therium and Phi Finney McDonald, and:
 - a. If the GetSwift Class Action is successful, Therium's costs and commission will come out of the settlement or judgment sum, and the remainder distributed to group members.
 - b. If the GetSwift Class Action is unsuccessful, class members will have no liability and the costs of the case will be borne by Therium and Phi Finney McDonald.



MEDIATION

1. The mediation in February 2020 was unsuccessful. That is, the parties in the class action did not agree to settle the proceeding.
2. The trial of the GetSwift Class Action is scheduled to commence on 14 September 2020. The parties in the proceeding may, or may not, agree to settle prior to that time, but there is presently no further mediation scheduled.
3. Any proposed settlement that is agreed between the parties will need to be approved by the Court before it can take effect, and group members would receive a further notice at that time. Group members will be given an opportunity to have their say on the reasonableness of any proposed settlement before it is approved.
4. You may recall that the Second Notice sent in October 2019 set a deadline for group members to register their claims in order to have the right to benefit from any proposed settlement agreed either at, or within two months of the end of, the mediation in February 2020. Group members who did not register by the deadline would be bound by any settlement but would lose the right to benefit from it (such as by receiving compensation). This process is known as a “soft class closure”.
5. Because the mediation was unsuccessful and ended more than two months ago, the soft class closure period has now expired.
6. That means that all group members, whether or not they registered by the deadline contained in the Second Notice, are entitled to participate in any future settlement or judgment in the GetSwift Class Action.
7. If there is a future settlement or judgment and/or a further registration process in the GetSwift Class Action, you will be sent a further notice advising you of what it means for you and any steps you are required to take. Phi Finney McDonald will keep on file the details of group members who have already registered their claims.