

NOTICE OF SETTLEMENT – “RUBBER CHEMICALS CLASS ACTION”

In 2007 a class action was commenced in the Federal Court of Australia (Proceeding) by Wright Rubber Products Pty Ltd (the Applicant) against Bayer AG, Bayer Australia Ltd, Chemtura Corporation and Chemtura Australia Pty Ltd (the Respondents). The Proceeding arises out of an alleged cartel to fix the price of certain rubber chemicals (Rubber Chemicals) between 1 July 1995 and 31 December 2001 (the Cartel Period). The Second Amended Statement of Claim details the claims (which the Respondents deny) and includes a full list of the Rubber Chemicals.

The Proceeding is brought by the Applicant on its own behalf and on behalf of all persons who are class members as defined in the Proceeding. Class members are bound by any judgment or settlement entered into in the Proceeding unless they have opted out of the Proceeding.

This notice is being published in accordance with an order made by the Federal Court of Australia on 2 September 2011.

ARE YOU A CLASS MEMBER?

You are a class member if you were a commercial manufacturer of Rubber Compounds and/or Rubber Products who, during the Cartel Period:

- (a) paid at least AU\$5,000 for Rubber Chemicals or at least AU\$10,000 for Rubber Compounds; and
- (b) were ordinarily resident in or carrying on business in Australia, not a Justice or Registrar of the High Court of Australia or the Federal Court of Australia and not a Respondent in this Proceeding or an entity related to such a person within the meaning of the Corporations Act 2001.

Rubber Compounds means compounds of natural or synthetic rubber and other raw materials manufactured using Rubber Chemicals. Rubber Products means intermediate and/or finished products manufactured using Rubber Compounds for manufacturers and consumers.

If you are, or think you might be, a class member then you should read this notice carefully, as it may affect your rights. If you have entered into a settlement agreement with some or all of the Respondents, you may not have a claim in the Proceeding.

SETTLEMENT OF CLASS ACTION

The parties have agreed to settle the Proceeding. The Federal Court has approved the settlement, and also approved a “Settlement Distribution Scheme” for distributing the settlement money among the Applicant and other class members.

Under the settlement:

- The Bayer Respondents have paid AU\$750,000;
- Chemtura Corporation will pay AU\$750,000¹ by a combination of approximately:
 - (a) 14% (AU\$105,000) in cash; and
 - (b) 86% (AU\$645,000) in new common stock in the reorganized Chemtura Corporation. The number of shares allocated will be based on a valuation of US\$13.45² per share. The stock will then be sold by the Applicant and the proceeds will become part of the settlement sum.
- The sum of AU\$1.1m will be paid to the Applicant’s solicitors, Maurice Blackburn, as partial payment for costs and disbursements incurred in this matter. Those amounts (which

¹ On 18 March 2009, Chemtura Corporation filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the US Bankruptcy Court, Southern District of New York (Case No. 09 011233 (REG)). As part of the settlement Chemtura Corporation allowed the Applicant and class members’ claim in its Chapter 11 Case as a general unsecured claim in the amount of \$750,000 to be paid under its Chapter 11 plan of reorganization (the Plan). The Plan was confirmed by the US Bankruptcy Court by order dated 3 November 2010.

² The valuation per share according to the Plan.

were subject to verification by an independent legal costs assessor and Court approval) are inclusive of all costs and disbursements incurred by the Applicant since the case was commenced in 2007, including in relation to an appeal, and settlement approval and administration. Maurice Blackburn will forego a significant portion of its costs and disbursements.

- By way of example, on 31 August 2011 approximately AU\$389,929.37 (being the total of the payment from the Bayer Respondents and the value of the Chemtura settlement as at that date (AU\$1,489,929.37) less the AU\$1.1m partial reimbursement to Maurice Blackburn on account of costs and disbursements incurred) would have been available for distribution to class members who lodge eligible claims supported by business records.
- The sum of AU\$25,040 will be paid to the Applicant by way of compensation and reimbursement for time and expenditure reasonably incurred in a representative capacity.
- The remainder of the settlement amount will be available for distribution to class members who lodge eligible claims supported by business records, described in the “**Proof of Claim**” form which can be viewed at the website below.
- Class members are entitled to a maximum of 6% of the value of their purchases of Rubber Chemicals and 0.4% of their purchases of Rubber Compounds during the Cartel Period.
- If the entitlement of all claimants exceeds the amount available for distribution, then the amount will be distributed to claimants in proportion to each claimant’s claim. If the entitlement of all claimants is less than the amount available, the remainder will be paid to Maurice Blackburn towards payment of the Applicant’s unpaid costs and disbursements.
- If a class member is dissatisfied with the amount assessed for its claim under the Settlement Scheme then it may request a review by an independent barrister, who will charge the class member a fee.
- Maurice Blackburn will not charge class members any costs in relation to the class action or for participating in the settlement. If any class member wishes to engage separate solicitors then it will need to enter a separate costs arrangement with those solicitors.
- The full terms of the settlement and Settlement Distribution Scheme may be by obtained by contacting Maurice Blackburn.

WHAT YOU MUST DO

If you are a class member and you **do want to participate** in the settlement then you **must** submit a properly completed “Proof of Claim” form to Maurice Blackburn by 3 October 2011. You can obtain the Proof of Claim by contacting Maurice Blackburn. You can submit your Proof of Claim by mail, facsimile or e-mail.

Class members who do not submit a properly completed Proof of Claim form by the deadline will lose the right to make any claim under the settlement agreement or against the Respondents in respect of the alleged cartel.

If you are a class member but you **do not** want to participate in the settlement then there is nothing you need to do. After the deadline passes on 3 October 2011 you will lose the right to make any claim under the settlement agreement or against the Respondents in respect of the alleged cartel.

FURTHER INFORMATION

If you are not sure whether you are a class member, are not sure whether to complete and return the Proof of Claim, or have any other questions, you may contact the Applicants’ lawyers or visit the Maurice Blackburn website or seek your own legal advice.

You should act quickly. Class members who wish to make a claim **must** submit their completed Proof of Claim form by 3 October 2011 **or they will lose their rights.**

MB CONTACT DETAILS

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