



OPT OUT AND REGISTRATION NOTICE

SIMS CLASS ACTION

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

It is about the SIMS CLASS ACTION. It is sent to you because the Court considers it is likely you are a group member.

As explained below, you may do one of three things in response to this notice by **4pm AEST on 16 October 2020**:

1. **opt out** of the class action and lose a right to getting any money compensation out of the class action (but keep your right to try to get some money compensation in an action you start yourself);
2. **register in** the class action; or
3. **do nothing**.

The applicant has asked the Court to make a **class closure order**, which, if made, would limit this class action only to people who have registered by 4pm AEST on 16 October 2020. This notice explains the consequences of the three options above, including if a class closure order is made. It also tells you what you need to do if you want to be heard by the Court about the class closure order.

If you have entered into a litigation funding agreement with Investor Claim Partner Pty Ltd and ICP Capital Pty Ltd, you will be contacted to **provide additional share trading data**.



THE SIMS CLASS ACTION

1. WHAT TO KNOW ABOUT THE CLASS ACTION

What is the class action about?

A class action has been commenced in the Federal Court of Australia on behalf of all persons who at some time during the period from 23 July 2014 to 19 February 2016 (inclusive) acquired an interest in fully-paid ordinary shares in Sims Limited (formerly known as Sims Metal Management Limited) (**Sims**), and who suffered loss or damage by or resulting from the conduct of Sims pleaded in the action. If you acquired an interest in ordinary shares in Sims during that period, you may be a “group member” in the class action. (Previously the class action only related to persons who acquired shares between 21 August 2015 and 19 February 2016, but it has recently been expanded).

How is the class action being funded?

The solicitors running the case are William Roberts Lawyers. The class action is currently being funded by two companies called Investor Claim Partner Pty Ltd and ICP Capital Pty Ltd (together, **ICP**). Group members are not, and will not be, liable for any “out of pocket” legal costs by remaining in this class action. The costs of running it are being paid for at present by ICP. If the class action is unsuccessful, group members will have no liability.

As a likely group member, in April 2019 you may already have received a notice about a potential “common fund” order requiring group members to pay a share of legal and funding costs even if they had not signed up with ICP. The Court made a common fund order on 5 July 2019 but it has now set it aside. That means that order no longer applies. **However, the group members who have entered litigation funding agreements have already agreed to pay ICP a commission out of any settlement or judgment they receive if the class action is successful, and to share the legal costs. Even if you have not entered a litigation funding agreement, if you stay in the class action the Court may make an order at the end of the proceeding or after settlement that requires you to make a contribution to the cost of the proceedings (including funding commission charged by ICP) out of any money compensation you receive. That will be a matter for the Court to decide.**

Registering for the class action

You are now being asked to decide if you want to stay in the class action, and being given an opportunity to register your claims in the class action or to opt out. If you register, the information you provide will be used to work out how much your claim is worth and used by the parties in any settlement talks. Your information will help the applicant to try to negotiate the best settlement possible on your behalf. You can register in the class action and provide that information by completing the registration form attached to this notice.

Proposal to limit the class to people who register

Separately, the applicant has asked the Court to make a **class closure order**, which would limit this class action only to people who have registered (as described in section 2(b) below) by **4pm AEST on 16 October 2020**. Sims opposes the applicant’s request for a class closure order.



If the class closure order is made, it will mean that if you do not register in the class action by 4pm AEST on 16 October 2020, you will no longer be a group member even if you have not opted out. In that case, if you want to claim compensation from Sims you will have to bring your own action.

However, even if the class closure order is made, the Court might provide group members with a further opportunity to register, even if you do nothing before 4pm AEST on 16 October 2020.

If the Court does not make the class closure order and you do not opt out, you will remain a group member and part of the class action, even if you do nothing in response to this notice.

2. YOUR THREE OPTIONS

(a) OPT OUT

You can choose to **opt out** of the class action, by **4:00pm AEST on 16 October 2020**. Group members who opt out will not be bound by the outcome of the class action and will not receive any money from the class action if it wins or settles.

Group members should seek legal advice before opting out. Opting out is a serious step - you should not do it unless you understand what it means. If you opt out, then if you want to claim compensation from Sims you will have to bring your own action (if there is time for you to do so). The limitation period for people who opt out will start to run again from when they opt out, and because the allegations against Sims date back to 23 July 2014 you may only have a short period to bring your own action.

If you wish to opt out, you need to complete the form titled “Opt Out Notice” which is **at Annexure 1** of this Notice. The completed Opt Out Notice must be sent directly to the New South Wales District Registry of the Federal Court of Australia by 4:00pm on 16 October 2020.

(b) REGISTER IN THE CLASS ACTION

If you have already entered into a litigation funding agreement with Investor Claim Partner Pty Ltd or ICP Capital Pty Ltd (**ICP**), you are taken to have already registered to the class action.

Otherwise, you can choose to **register in** the class action by submitting claim details to ICP by completing and returning a signed Group Member Registration Form.

The Group Member Registration Form is **at Annexure 2** of this Notice and explains what information you are asked to provide, and how you are to provide it.

As explained above, the Applicant has applied for orders closing the class so that it only covers people who have registered their claims by 16 October 2020 in response to this notice.

If you want to register in the class action, you should complete and return a signed Group Member Registration Form to ICP before 4.00pm AEST on 16 October 2020 via email to SimsClassAction@icp.net.au; or post to Level 13, 115 Pitt Street, Sydney NSW 2000. This will not involve you entering into any contract with ICP.

If you have already signed a funding agreement with ICP, you do not need to register again, but you will be contacted to provide additional share trading data.



(c) DO NOTHING

If you **do nothing** in response to this notice, and have not already signed a funding agreement with ICP, there is a risk that your claim will cease to be part of the class action.

This is because the applicant has applied for orders closing the class so that it only covers people who have already signed funding agreements, or who register by **4pm AEST on 16 October 2020**. Sims opposes this application.

If the class closure order is made, that will mean that, if you do not register in the class action by 4pm AEST on 16 October 2020, you will no longer be a group member even if you did not opt out. In that case, if you want to claim compensation from Sims you will have to bring your own action.

However, even if the class closure order is made, the Court might provide group members with a further opportunity to register, even if you do nothing before 4pm AEST on 16 October 2020. And, if the class closure order is not made and you have not opted out, then you will remain a group member and part of the class action, even if you do nothing in response to this notice.

3. OPPOSING CLASS CLOSURE ORDER

If you wish to object to the class closure order being made, you:

- **should, on or before 16 October 2020, write to William Roberts Lawyers indicating that you oppose the class closure order being made, providing your reasons for your opposition, together with a contact email address. William Roberts Lawyers will provide a copy of your letter to Sims' solicitors and the Court within 5 days of receipt of your letter; and**
- **should on or before 6 November 2020 file with the Court any evidence on which you intend to rely to oppose the class closure order; and**
- **are encouraged to attend the video hearing on 4 December 2020, details of which will be provided to you by William Roberts Lawyers on the email contact address you provide.**

The Court has decided to appoint a “contradictor” to argue why a class closure order should not be made or to suggest any conditions that the Court should impose to protect the interests of group members who would be excluded. This means that an independent lawyer appointed by the Court, will make arguments concerning the class closure order. The Court will listen carefully to any arguments the contradictor makes about the proposed class closure, together with arguments from the Applicant's and Sims' legal representatives, and will decide whether the class closure order is appropriate or not. Any material you provide to the Court will also be provided to the contradictor.

4. WHERE CAN YOU OBTAIN COPIES OF RELEVANT DOCUMENTS?

You may access copies of the Court papers which detail the relevant documents filed in connection with the class action, via the Federal Court website, which is accessible at <http://www.fedcourt.gov.au> or via William Roberts Lawyers' website at www.williamroberts.com.au.



5. QUESTIONS?

Please consider the above matters carefully. If you are unclear about whether you are a group member, or if you have any other questions regarding the class action, you should contact William Roberts Lawyers by writing to “Sims Class Action”, William Roberts Lawyers, PO Box 20424, World Square NSW 2002, or by sending an email to WR-Sims@williamroberts.com.au. Alternatively, you can seek legal advice from other solicitors. You should not delay in making your decision.

If you wish to register in the class action, but do not have access to the internet or are otherwise unable to register in accordance with the form, please call ICP on 1800 26 26 00 between the hours of 9.00am to 5.00pm AEST before **4.00pm AEST on 16 October 2020**. At the time of your call, please ensure you have all available information relevant to your trading transactions in Sims securities.



ANNEXURE 1 – OPT OUT

Form 21
Rule 9.34

OPT OUT NOTICE

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

No. NSD220/2019

**CARPENDERS PARK PTY LTD (as trustee of the Carpenders Park Pty Ltd Staff
Superannuation Fund)**

Applicant

SIMS LIMITED ACN 114 838 630

Respondent

To: The Registrar
Federal Court of Australia
New South Wales District Registry
Level 17, Law Courts Building
Queens Square
Sydney NSW 2000
Or by email at: nswdr@fedcourt.gov.au

..... (print name), a Group Member in this
representative proceeding, gives notice under section 33J of the *Federal Court of Australia
Act 1976* (Cth), that he, she or it is opting out of the representative proceeding.

Date:.....

Signed by

..... (signature)

..... (print name)

Group Member / Lawyer for the Group Member



Address of Group Member:

.....
.....

Telephone:

Email:

ACN/ABN:(if a company or trustee)

HIN/SRN:

If the shares were acquired on behalf of another person/entity, name of that person/entity:

.....

If you are signing as the solicitor or representative of the Group Member:

Name:

Capacity in which you are signing:

Address:

.....
.....

Telephone:



ANNEXURE 2 – GROUP MEMBER REGISTRATION

GROUP MEMBER REGISTRATION

To register in this class action, please return this completed Group Member Registration Form to ICP before **4.00pm AEST on 16 October 2020** via:

- (a) email to Investor Claim Partner Pty Ltd at SimsClassAction@icp.net.au; or
- (b) post to Investor Claim Partner Pty Ltd at Level 13, 115 Pitt Street, Sydney NSW 2000.

Note: Group Members who have already entered into a funding agreement with the ICP do not need to take any further action and may disregard this Notice. William Roberts Lawyers or ICP will contact you directly if you need to provide any further information.



GROUP MEMBER REGISTRATION FORM

“Sims Class Action”

Federal Court of Australia proceeding NSD220 of 2019

Attention: Sims Class Action
To: Investor Claim Partner Pty Ltd
Level 13, 115 Pitt Street
Sydney NSW 2000

THE INFORMATION BELOW IN ITEMS 1 AND 2 MUST BE PROVIDED.

1. GROUP MEMBER DETAILS	PLEASE PRINT IN CAPITAL LETTERS
Group Member Name:	<input type="text"/>
If the Group Member is a company insert ABN/ACN or Registration No. (if overseas company)	<input type="text"/>
Street Address: (Not PO Box)	<input type="text"/>
Suburb/Town:	<input type="text"/>
State:	<input type="text"/>
Postcode:	<input type="text"/>
Country:	<input type="text"/>

2. CONTACT DETAILS	PLEASE PRINT IN CAPITAL LETTERS



First Name:	<input type="text"/>	Surname:	<input type="text"/>
Postal Address:	<input type="text"/>		
State:	<input type="text"/>	Postcode:	<input type="text"/>
		Country:	<input type="text"/>
Email address:	<input type="text"/>		
Telephone number:	<input type="text"/>	Mobile:	<input type="text"/>

YOU ARE REQUIRED TO USE REASONABLE ENDEAVOURS TO PROVIDE THE INFORMATION IN ITEMS 3 TO 5 BELOW, WHICH RELATES TO YOUR INVESTMENT IN SIMS.

3. INVESTMENT DETAILS FOR SIMS SECURITIES

Full Name of Registered Owner:
(This is the name of the entity on the share register)

SRN/HIN (IF AVAILABLE):

Note: If your Sims securities were or are held under different registered names, or the holdings have different SRN/HIN numbers, please copy and complete this page for each holding.

4. TRADE DETAILS FOR SIMS SHARES

SHARES HELD:



NUMBER OF SIMS SHARES HELD AT THE CLOSE OF MARKET ON 22 JULY 2014	
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ON-MARKET PURCHASES:

**LIST ON-MARKET PURCHASES FROM 23 JULY
2014 TO 19 FEBRUARY 2016 INCLUSIVE**

DATE OF SHARE ACQUISITION	QUANTITY OF SHARES	GROSS PRICE PAID (incl. Brokerage)

DISPOSALS/SALES:

**LIST DISPOSALS/SALES FROM 23 JULY 2014
TO 19 FEBRUARY 2016 INCLUSIVE**

DATE OF SHARE SALE	QUANTITY OF SHARES	NET PRICE RECEIVED (net of Brokerage)

**5. TRADE DETAILS FOR SIMS SHARES (20 FEBRUARY 2016
TO 14 AUGUST 2020)**

ON-MARKET PURCHASES:

**LIST ON-MARKET PURCHASES FROM 20
FEBRUARY 2016 TO 14 AUGUST 2020
INCLUSIVE**



DATE OF SHARE ACQUISITION	QUANTITY OF SHARES	GROSS PRICE PAID (incl. Brokerage)

DISPOSALS/SALES:

LIST DISPOSALS/SALES FROM 20 FEBRUARY 2016 TO 14 AUGUST 2020 INCLUSIVE

DATE OF SHARE SALE	QUANTITY OF SHARES	NET PRICE RECEIVED (net of Brokerage)

If the above space is insufficient, please provide the required information on separate pages.

Date:

Signed by, or on behalf
of and with authority of,
the Group Member
(as specified above)

(print name)

IMPORTANT: SUPPORTING DOCUMENTS OR STATUTORY DECLARATION



Please do the best you can to provide documentary evidence in support of the information you are providing with this form, including:

- (a) holding statements and/or contract notes if available; and
- (b) trade information (preferably but not essentially in Excel format if claiming on behalf of multiple funds).

If you cannot provide all the information sought in this form, or cannot provide supporting documents, you are required to complete a **statutory declaration** saying that you cannot provide it, and giving the reason why. The Commonwealth statutory declaration form is set out at the end of this Notice. The form may also be downloaded from <https://www.ag.gov.au/Publications/Statutory-declarations/Pages/default.aspx>

A statutory declaration made by you will be accepted by the Court if it is not reasonably practicable to have it witnessed during the period in which movement is restricted by public health orders due to the COVID-19 pandemic.

PERSONAL INFORMATION

In accordance with the Court's orders, the information contained in your completed Group Member Registration Form will be provided to Sims for the purposes of the class action only and in order to facilitate any settlement.



Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

1 *Insert the name,
address and
occupation of
person making
the declaration*

I,¹

make the following declaration under the *Statutory Declarations Act 1959*:

2 *Set out matter
declared to in
numbered
paragraphs*

1. I cannot provide: (1) the information requested in Items 3-5 of the Group Member Registration Form accompanying this Statutory Declaration which I have left blank, OR (2) all the documents requested by the Group Member Registration Form.
2. The reason why I cannot provide the information OR documents referred to in (1) above is (*Please complete details, and add further pages if necessary*):
 - a.
 - b.
3. I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 *Signature of
person making
the declaration*

³

4 *[Optional: email
address and/or
telephone
number of person
making the
declaration]*

⁴

5 *Place*

Declared at ⁵

on ⁶

of ⁷

6 *Day*



7 *Month and year* Before me,

8 *Signature of person before whom the declaration is made (see over)* 8

9 *Full name, qualification and address of person before whom the declaration is made (in printed letters)* 9
10

10 *[Optional: email address and/or telephone number of person before whom the declaration is made]*

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.



A statutory declaration under the *Statutory Declarations Act 1959* may be made before—

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

Architect	Chiropractor	Dentist
Financial adviser	Financial Planner	Legal practitioner
Medical practitioner registered under Division 3 of Part 3 of the <i>Migration Act 1958</i>	Midwife	Migration agent
Nurse	Occupational therapist	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

Accountant who is:

- a) a fellow of the National Tax Accountants' Association; or
- b) a member of any of the following:
 - i. Chartered Accountants Australia and New Zealand;
 - ii. the Association of Taxation and Management Accountants;
 - iii. CPA Australia;
 - iv. the Institute of Public Accountants

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public

APS employee engaged on an ongoing basis with 5 or more years of continuous service who is not specified in another item in this list

Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)

Bailiff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service



Employee of a Commonwealth authority engaged on a permanent basis with 5 or more years of continuous service who is not specified in another item in this list

Employee of the Australian Trade and Investment Commission who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and
- (c) exercising the employee's function at that place

Employee of the Commonwealth who is:

- (a) at a place outside Australia; and
- (b) authorised under paragraph 3 (c) of the *Consular Fees Act 1955*; and
- (c) exercising the employee's function at that place

Engineer who is:

- a) a member of Engineers Australia, other than at the grade of student; or
- b) a Registered Professional Engineer of Professionals Australia; or
- c) registered as an engineer under a law of the Commonwealth, a State or Territory; or
- d) registered on the National Engineering Register by Engineers Australia

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of the Australian Defence Force who is:

- a) an officer
- b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service
- c) a warrant officer within the meaning of that Act

Member of the Australasian Institute of Mining and Metallurgy

Member of the Governance Institute of Australia Ltd

Member of:

- a) the Parliament of the Commonwealth
- b) the Parliament of a State



- c) a Territory legislature
- d) a local government authority

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary public, including a notary public (however described) exercising functions at a place outside

- a) the Commonwealth
- b) the external Territories of the Commonwealth

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office providing postal services to the public

Permanent employee of

- a) a State or Territory or a State or Territory authority
- b) a local government authority

with 5 or more years of continuous service, other than such an employee who is specified in another item of this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior executive employee of a Commonwealth authority

Senior executive employee of a State or Territory

SES employee of the Commonwealth

Sheriff

Sheriff's officer

Teacher employed on a permanent full-time or part-time basis at a school or tertiary education institution