

# APM Security Plan Sickness & Accident Fund (In Liquidation) (‘the Fund’)

## Frequently Asked Questions (‘FAQs’)

to be read together with the Liquidator correspondence dated 28 June 2024

### *Why do I need to complete a Member Substantiation Form?*

The Liquidator is using the Member Substantiation Form to gather information from persons claiming to be members of the Fund which may be relevant in determining their entitlement to participate in a distribution of the Fund’s net asset realisation proceeds.

This includes information the Liquidator may use to reconcile your claim to the Fund’s records or fill gaps in the Fund’s records. The Liquidator will ultimately return to the Court with the information gathered and confirm how to proceed with a distribution of the Fund’s net proceeds to any eligible members. The Liquidator will formally adjudicate your claim at this future stage.

### *Why is the Liquidator using the 2005 Rules?*

Several versions of the Fund’s rules were contained in the books and records. Further details of these versions are contained in the Liquidator’s Rules Application, which is available on the KordaMentha website here:

<https://www.kordamentha.com/creditors/apm-security-plan-sickness-accident-fund>.

On 22 February 2024, the Liquidator obtained Orders that they would be justified in proceeding on the basis that the document entitled "APM Botany Mill Security Plan Sickness & Accident Fund Rules" dated 1 July 2005 ('2005 Rules') contain the Rules which govern the Fund.

A fully copy of the Rules is available on the KordaMentha website for your reference.

### *What if I do not know my specific employment start or finish date at the Botany Mill?*

If you are not sure of your exact employment start or finish date at the Botany Mill, please provide your best estimation and note that it is an approximation only on the Member Substantiation Form.

### *What are the types of members?*

The final determination of members will be subject to a further Court application. However, the table below sets out the preliminary membership eligibility criteria based on the Liquidator's review of the 2005 Rules is as follows:

| Membership type    | Reference | Eligibility criteria                                                                                                                                                                                                                                                                                                                 |
|--------------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Member             | 3.1.      | <ul style="list-style-type: none"><li>Full-time permanent staff and employees of the Company, employed at either the AFPA Botany Mill or by NSW Recycling Department.</li></ul>                                                                                                                                                      |
|                    | 3.2.      |                                                                                                                                                                                                                                                                                                                                      |
|                    |           | <ul style="list-style-type: none"><li>Contributed an amount equivalent to \$2.00 per week (deducted from wages).</li></ul>                                                                                                                                                                                                           |
| Honorary member    | 3.7.      | <ul style="list-style-type: none"><li>May be granted to members with 10 years continuous service by the Committee, under the following conditions:</li></ul>                                                                                                                                                                         |
|                    |           | <ul style="list-style-type: none"><li>– Upon the member reaching or surpassing normal retirement age.</li></ul>                                                                                                                                                                                                                      |
|                    |           | <ul style="list-style-type: none"><li>– Upon the member retiring due to health reasons which would qualify them for an Invalid Pension.</li></ul>                                                                                                                                                                                    |
|                    |           | <ul style="list-style-type: none"><li>– Upon the member reaching 55 years of age, is made redundant, accepts a voluntary redundancy or retires, and who pays to the Fund an amount equivalent to 25% of what they would have contributed had they remained employed with the Company until their 65<sup>th</sup> birthday.</li></ul> |
| Unfinancial member | 3.5.      | <ul style="list-style-type: none"><li>Contributions are over one month in arrears.</li></ul>                                                                                                                                                                                                                                         |

| Membership type | Reference | Eligibility criteria                                                                                                                                                                                                                                                                                     |
|-----------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Former member   | 3.4       | <ul style="list-style-type: none"> <li>Member of the Fund, but: <ul style="list-style-type: none"> <li>left the employ of the Company; or</li> <li>were transferred from AFPA Botany or NSW Recycling; or</li> <li>were expelled from the Fund in accordance with the 2005 Rules.</li> </ul> </li> </ul> |

#### *What contributions should I provide details of?*

To the extent you can recall (or have documentation demonstrating), please advise:

- The dollar value of each of your contributions to the Fund
- The frequency of those contributions (e.g. weekly, fortnightly, monthly)
- The period of time for which contributions were deducted/paid.

#### *What constitutes a 'dependant' for the purpose of completing the Form?*

The 2005 Rules define 'dependants' in Section 3.3. The extract from the Rules is set out below:

"Dependants will include:

- i) Wife or husband
- ii) Common law spouse
- iii) Dependant children of up to 18 years of age
- iv) Student child up to 25 years of age
- v) Daughter housekeeper."

Please provide the names of anyone who would have been defined as your 'dependant' during your membership of the Fund and their relation to you.

#### *What details of benefits paid to me do I need to disclose in the Member Substantiation Form?*

Details of benefits paid to you will allow the Liquidator to review the books and records of the Fund to confirm your membership type and tenure as a member the Fund. The Liquidator does not require a comprehensive list of all benefits paid to you during your membership of the Fund, however, to your best recollection please advise of:

- Any ancillary benefits received in respect of your claims (described in Section 5.1. and Appendix A of the 2005 Rules);
- Any ancillary benefits received in respect of your dependants' claims (described in Section 5.1. and Appendix A of the 2005 Rules);
- Any funeral benefits received (described in Section 5.2 of the 2005 Rules);
- Any sickness benefits received (described in Section 5.4 of the 2005 Rules)

Please provide approximate details and timing only – the Liquidator does not require a comprehensive list.

#### *What type of supporting documentation is sufficient?*

Examples of documentation which you may provide include, but is not limited to:

- Pay slips showing your employment at the Company
- Pay slips showing deductions for contributions to the Fund
- Previous claim forms for benefits payable by the Fund
- Correspondence with Committee members or management of the Fund
- Employment contract showing employment at the Botany Mill
- Extract of bank statements during your tenure as an employee of the Botany Mill, including deposit of wages
- Correspondence demonstrating employment at the Botany Mill
- If you were made redundant, separation certificate demonstrating cessation of your employment at the Botany Mill.

We acknowledge there has been a significant passage of time since the Fund was established and since it entered 'caretaker mode.'

The Liquidator is in possession of the last known books and records of the Fund; however, these documents are not fulsome. The Liquidator will also be considering these records when reviewing Member Substantiation Forms, however the records do not comprehensively identify every member of the Fund, so please provide any additional documentation to the best of your ability.

*What if I do not have any supporting documentation?*

If you do not have supporting documentation, please still provide a Member Substantiation Form, completed to the best of your ability. The Liquidator's office may call to discuss your employment at the Botany Mill and documentation further.

*Does the Liquidator hold records relating to my membership?*

The Liquidator possesses some books and records relating to the Fund. These are not a complete set of records, and therefore members are encouraged to provide any records they have of their membership to ensure their claim is appropriately substantiated. As an example, the Liquidator holds a copy of the honour board for service of more than 25 years at the Botany Mill.

*Can I complete the Member Substantiation Form on behalf of somebody else?*

Yes, you can complete this form on behalf of a (current or former) member of the Fund. If you are completing this form on behalf of somebody else:

- Use Section 2 of the Form to identify the details of the (current or former) member
- Tick the second box under 'Execution' for completing the form on behalf of a (current or former) member.
- Sign the form and provide your contact details at the bottom of the Form, should the Liquidator's office need to contact you.

*What if my relative may have been a member but they are now deceased?*

You may complete the Member Substantiation Form on behalf of a deceased member. While the Liquidator does not have Court directions as to which members will receive a distribution of the Fund's net proceeds, or if deceased members will be eligible, you are encouraged to provide any known details so you can still be included in correspondence regarding next steps in the winding up and distribution process.

Please complete the Member Substantiation Form on behalf of someone else as outlined above and also provide documentation substantiating your relation to the Interested Person or their estate.

*I was made redundant during the decommissioning of the B7 and B7 paper machines at Botany Mill. What does this mean for me?*

Based on the 22 February 2024 Orders, you may be entitled to participate in a distribution of the Fund's net proceeds. While the Liquidator cannot confirm the quantum of any distribution at this stage, please complete and return the Member Substantiation Form so you can be included in correspondence regarding next steps in the winding up and distribution process.

*Will you confirm if I am a member once I provide the documentation?*

The Liquidator will review your documentation and will be in contact with any queries or to confirm if any further information is required.

While the Liquidator will review your documentation, they are not able to definitively confirm if you are a member of the Fund for the purpose of a distribution of the Fund's net assets. This is ultimately for the Court to decide in the next application brought by the Liquidator. This will be the Distribution Application (defined below). After the Distribution Application the Liquidator will formally adjudicate on the Member Substantiation Forms received.

*What distribution will I receive?*

At this stage, the Liquidator cannot confirm if you will receive a distribution, nor the quantum of any distribution potentially payable. This is because the Liquidator will first need to return to the Court to confirm members have been appropriately classified, have provided appropriate supporting evidence, and to confirm how the Liquidator should calculate and pay a distribution.

The Liquidator will report to Interested Persons again prior to making this Distribution Application.

*When will I know the size of my distribution and when will it be paid?*

Prior to paying a distribution from the Fund, the Liquidator will need to:

- Review the Member Substantiation Forms received, collate and review all substantiating documentation
- Prepare an application to the Court seeking guidance on the information received and distribution methods (Distribution Application)
- Adjudicate all claims and subsequently attend to calculating and paying the distribution.

As the Liquidator does not currently have a view on how many members will provide Member Substantiation Forms, it is difficult to provide a time estimate or dollar value in respect of a distribution.

The Liquidator will again report to members prior to making the Distribution Application and will provide a timeline in respect of the distribution, as soon as they are able.