

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 5/04/2016 3:49:22 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	VID282/2016
File Title:	Australian Securities and Investments Commission v Westpac Banking Corporation
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink, reading 'Warwick Soden'.

Dated: 5/04/2016 4:31:07 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



- a. favourable to Westpac's BBSW Rate Set Exposure;
- b. unfavourable to counterparties to BBSW Referenced Products with Westpac who were not listed public companies and who had a BBSW Rate Set Exposure opposite to Westpac's BBSW Rate Set Exposure; and
- c. unfavourable to any other party to a BBSW Referenced Product who was not a listed company and who had a BBSW Rate Set Exposure opposite to Westpac's BBSW Rate Set Exposure,

in contravention of:

- d. in relation to conduct on the dates in Annexures A and B prior to 1 January 2012 — the former section 12CC of the ASIC Act; and
- e. in relation to conduct on the dates in Annexures A and B on or after 1 January 2012 — section 12CB of the ASIC Act.

6 A declaration that, throughout the Relevant Period, Westpac, in trade or commerce, engaged in a pattern of behaviour in connection with the possible acquisition or supply, or acquisition or supply, of financial services, which was unconscionable in all the circumstances by trading in Prime Bank Bills in the Bank Bill Market during the BBSW Rate Set Window with an intention of affecting the yield of Prime Bank Bills so as to affect the level at which the BBSW was set in a way that was:

- a. favourable to Westpac's BBSW Rate Set Exposure;
- b. unfavourable to counterparties to BBSW Referenced Products with Westpac who were not listed public companies and who had a BBSW Rate Set Exposure opposite to Westpac's BBSW Rate Set Exposure; and
- c. unfavourable to any other party to a BBSW Referenced Product who was not a listed company and who had a BBSW Rate Set Exposure opposite to Westpac's BBSW Rate Set Exposure,

in contravention of:

- d. in relation to conduct on the dates in Annexures A and B prior to 1 January 2012 — the former section 12CC of the ASIC Act; and
- e. in relation to conduct on the dates in Annexures A and B on or after 1 January 2012 — section 12CB of the ASIC Act.

7 A declaration that, throughout the Relevant Period, Westpac, in trade or commerce and in connection with the supply by it of financial services, engaged in conduct that was misleading or deceptive or likely to mislead or deceive by:

- a. representing to counterparties to BBSW Referenced Products with Westpac that the BBSW rate was an objective and independent reference rate, whereas



Westpac engaged in conduct with the intention of affecting the BBSW rate to its advantage; and / or

- b. silence or non-disclosure, in circumstances where Westpac was aware that counterparties to BBSW Referenced Products with Westpac did not and could not know that Westpac might engage in trading in Prime Bank Bills in the Bank Bill Market with an intention of affecting the yield of Prime Bank Bills so as to affect the level at which the BBSW was set, to the benefit of Westpac and to the detriment of such counterparties —

and thereby:

- c. contravened s 1041H of the Corporations Act and / or s 12DA of the ASIC Act;
- d. made false or misleading representations to such counterparties as to the standard, quality or value, the performance characteristics or benefits, or the price of those products in breach of s12DB(1)(a), (e) and (g) of the ASIC Act in relation to the supply of each of the BBSW Referenced Products; and / or
- e. engaged in conduct that was liable to mislead the public as to the characteristics and suitability for their purposes of the BBSW Referenced Products in contravention of s12DF of the ASIC Act in relation to the supply of each of the BBSW Referenced Products.

8 An order under section 12GBA(1)(a) of the ASIC Act that pecuniary penalties be paid by Westpac in amounts that the Court considers appropriate in respect of the contraventions referred to in paragraphs 4, 5, 6 and 7(d) and (e).

9 A declaration that, in the events that have happened, Westpac:

- a. failed to do all things necessary to ensure that the financial services covered by its AFS licence were provided efficiently, honestly and fairly;
- b. failed to comply with the financial services laws;
- c. failed to take reasonable steps to ensure that its representatives complied with the financial services laws; and / or
- d. failed to do all things necessary to ensure that its representatives were adequately trained, and were competent, to provide financial services,

each in contravention of section 912A(1) of the Corporations Act.

10 An order under section 1101B(1) of the Corporations Act and section 12GLA(1) of the ASIC Act requiring Westpac to establish a compliance program for its employees or other persons involved in Westpac's trading in the Bank Bill Market designed to ensure their awareness of the responsibilities and obligations in relation to trading Prime Bank Bills in the Bank Bill Market, including the obligation not to carry out any trading activity that:



- a. interferes with the normal supply and demand factors in the market for a financial product;
- b. has the potential to create artificial markets or prices; and / or
- c. is not based on a genuine trading intent.

11 An order that Westpac pay the plaintiff's costs.

12 Such other order as the Court thinks fit.

Date: 5 April 2016

Conrad Gray

*Signature of plaintiff or
plaintiff's legal practitioner*

This application will be heard by at the Owen Dixon Commonwealth Law Courts Building 305 William Street Melbourne VIC 3000 at *am/*pm on

B. INTERLOCUTORY APPLICATION

This application is made under rule 1.8 of the *Federal Court (Corporations) Rules 2000*.

On the facts stated in the Concise Statement, the plaintiff applies for the following orders:

- 1 Orders for a case management conference.

C. NOTICE TO DEFENDANT

TO: Westpac Banking Corporation

275 Kent Street, SYDNEY NSW 2000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;



(c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

D. FILING

Date of filing:

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Registrar

This originating process is filed by Conrad Gray for the plaintiff.

E. SERVICE

The plaintiff's address for service is Level 5, 100 Market St, Sydney, New South Wales, 2000.

It is intended to serve a copy of this originating process on each defendant and on any person listed below:

[none]



Annexure A to Originating Process

FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY: VICTORIA

DIVISION: GENERAL

No. of 2016

IN THE MATTER OF WESTPAC BANKING CORPORATION (ACN 007 457 141)

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

WESTPAC BANKING CORPORATION (ACN 007 457 141)

Defendant

The dates referred to in paragraphs 1, 4, 5 and 6 of the Originating Process are:

Date	Relevant tenor
10 June 2010	90 Day
9 June 2011	90 Day



Annexure B to Originating Process

FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY: VICTORIA

DIVISION: GENERAL

No. of 2016

IN THE MATTER OF WESTPAC BANKING CORPORATION (ACN 007 457 141)

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

WESTPAC BANKING CORPORATION (ACN 007 457 141)

Defendant

The dates referred to in paragraphs 2, 4, 5 and 6 of the Originating Process are:

Date	Relevant tenor
6 April 2010	30 Day
6 April 2010	90 Day
30 April 2010	30 Day
20 May 2010	30 Day
20 September 2010	30 Day
20 September 2010	90 Day
22 September 2010	90 Day
1 December 2010	90 Day
6 December 2010	90 Day
1 March 2011	90 Day
4 March 2011	90 Day



Date	Relevant tenor
1 June 2011	90 Day
6 June 2011	90 Day
6 June 2012	90 Day