

# ENFORCEABLE UNDERTAKING

*Australian Securities and Investments Commission Act 2001*

Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

*Anthony John Wilson*  
*Sydney, New South Wales*



## 1. Definitions

In addition to terms defined elsewhere in this undertaking, the following definitions are used:

**ASIC Act** means the *Australian Securities and Investments Commission Act 2001* (Cth).

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corporations Regulations** means the *Corporations Regulations 2001* (Cth).

**Date of commencement** means the date this enforceable undertaking is accepted by ASIC.

**Financial services** has the meaning given by section 766A of the Corporations Act.

**Macquarie** means Macquarie Bank Ltd and Macquarie Equities Limited.

**Relevant period** means the period from 30 July 2007 to 30 June 2013.

**Retail client** has the meaning given by sections 761G and 761GA of the Corporations Act.

## 2. Background

### ASIC's role

2.1 Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

### Details of Conduct

2.2 During the relevant period Mr Wilson was employed as a private client adviser by Macquarie.

2.3 In his role with Macquarie, Mr Wilson was authorised to provide financial services to Retail clients of Macquarie.

2.4 During the relevant period, Macquarie's policies and guidelines did not permit Mr Wilson to provide a discretionary trading service for clients.

2.5 On 17 May 2013 Macquarie provided a breach report to ASIC concerning Mr Wilson. In the breach report, Macquarie advised that they had conducted a file review for Mr Wilson and had identified a number of concerns.

### ASIC's investigation

2.6 ASIC commenced an investigation into the conduct of Mr Wilson and, in

Corporations Act with respect to financial services provided by him whilst employed by Macquarie.

**ASIC's views concerning the conduct:**

2.7 Based on the documents reviewed during its investigation, ASIC has concerns that, during the relevant period in relation to a number of his Retail clients, Mr Wilson may have:

2.7.1 held out to clients that he was authorised to undertake discretionary trading in financial products in circumstances where he was not so authorised;

2.7.2 mislead clients into apprehending that he was authorised to undertake discretionary trading in circumstances where he was not so authorised;

2.7.3 caused false entries to be made in Macquarie's trading system creating the false appearance that he had spoken with clients before he executed trades; and

2.7.4 failed to ensure the advice provided to his clients was appropriate in that the options he recommended were not appropriate for the clients' level of sophistication, risk tolerance and objectives.

2.8 As a result, ASIC is concerned that, during the relevant period, Mr Wilson may have failed to comply with sections 911C(d), 1041H, 1101F and 945A of the Corporations Act.

**Acknowledgment of ASIC's concerns**

2.9 Mr Wilson acknowledges that ASIC holds the concerns as set out in clauses 2.7 to 2.8 above, and that ASIC's concerns are reasonably held.

2.10 Mr Wilson has offered an enforceable undertaking in the terms of paragraph 3.2 below.

**3. Undertakings**

3.1 Under section 93AA of the ASIC Act, Mr Wilson has offered, and ASIC has agreed to accept as an alternative to pursuing administration action under the Act against Mr Wilson, the undertakings in paragraph 3.2 below.

3.2 Mr Wilson undertakes that, for a period of four years from the date of commencement, that he will not:

3.2.1 carry on a financial services business as defined in Part 7.1 Division 2 of the Corporations Act;

3.2.2 hold out that he holds an Australian Financial Services Licence;

3.2.3 provide a financial services as defined in section 766A of the Corporations Act;

3.2.4 apply to ASIC under section 913A of the Corporations Act for an Australian Financial Services Licence; or

3.2.5 become an authorised representative of an Australian Financial Services Licence holder pursuant to section 916A of the Act.

**4. Acknowledgements**

4.1.1 may issue a media release on execution of this undertaking referring to its terms and to the concerns of ASIC which led to its execution;

4.1.2 may from time to time publicly refer to this undertaking;

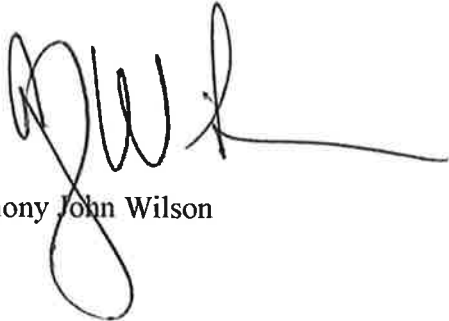
4.1.3 will make this undertaking available for public inspection.

4.2 Further Mr Wilson acknowledges that:

4.2.1 ASIC's acceptance of this undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of ASIC's concerns in this enforceable undertaking or arising from future conduct;

4.2.2 this undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this undertaking or arising from future conduct.

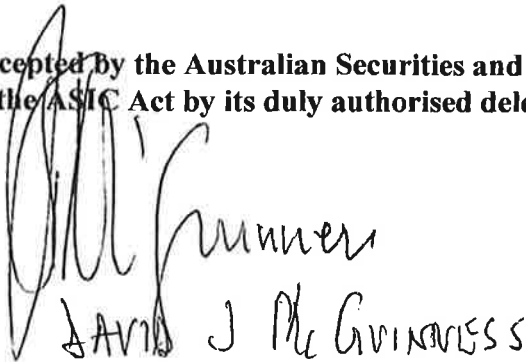
4.3 Mr Wilson acknowledges that this undertaking has no operative force until accepted by ASIC, and Mr Wilson and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.



Anthony John Wilson

Dated: 20 March 2017

**Accepted by the Australian Securities and Investments Commission under s93AA of the ASIC Act by its duly authorised delegate:**



DAVID J MCGINNESS

Delegate of Australian Securities and Investments Commission

Dated: 22 March 2017