

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 16/03/2020 1:55:45 PM AEDT 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 Application - Form 15 - Rule 8.01(1)
File Number:	VID181/2020
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v COMMONWEALTH BANK OF AUSTRALIA ACN 123 123 124
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



Dated: 16/03/2020 2:06:04 PM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

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.



Form 15  
Rules 8.01(1)

**ORIGINATING APPLICATION**

**FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: VICTORIA  
DIVISION: GENERAL**

**NO VID OF 2020**

**AUSTRALIAN SECURITIES AND INVESTMENTS  
COMMISSION**

Applicant

**COMMONWEALTH BANK OF AUSTRALIA (ACN 123 123  
124)**

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**TIME AND DATE FOR HEARING:**

**PLACE:**

Owen Dixon Commonwealth Law Courts Building, 305  
William Street, MELBOURNE, 3000

Date:

.....  
Signed by an officer acting with  
the authority of the District Registrar

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Filed on behalf of the Applicant, Australian Securities and  
Investments Commission

Prepared by: Paul Barker  
AGS lawyer within the meaning of s 551 of the *Judiciary Act*  
1903

Address for Service:  
The Australian Government Solicitor,  
Level 34, 600 Bourke St, Melbourne, VIC 3000  
Paul.Barker@ags.gov.au

File ref: 19004724

Telephone: 03 9242 1257  
Lawyer's Email:  
Paul.Barker@ags.gov.au  
Facsimile: 03 9242 1333  
DX 50 Melbourne



## DETAILS OF CLAIM

This application is made under sections 19 and 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), and sections 166 and 167 of the *National Consumer Credit Protection Act 2009* (Cth) (**NCCP Act**).

The Applicant seeks declarations of contraventions of the NCCP Act, pecuniary penalty orders and ancillary orders, including costs.

In this originating application, terms which are defined in the Concise Statement dated 12 March 2020 have the same meaning as they do in that document.

On the grounds stated in the accompanying Concise Statement, the Applicant claims:

### Declarations

1. A declaration under ss 19 and 21 of the FCA Act and s 166 of the NCCP Act that by the Assessment and in the circumstances of the Problem Gambler Notification, CBA:
  - 1.1. failed to make reasonable inquiries of Harris' requirements and objectives in relation to the Harris Credit Contract, in contravention of s 130(1)(a) of the NCCP Act; and
  - 1.2. failed to take reasonable steps to verify Harris' financial situation, in contravention of s 130(1)(c) of the NCCP Act.
2. A declaration under ss 19 and 21 of the FCA Act and s 166 of the NCCP Act that before providing a credit limit increase to Harris CBA failed to make the inquiries and verification in accordance with s 130 of the NCCP Act, in contravention of s 128(d) of the NCCPA Act.
3. A declaration under ss 19 and 21 of the FCA Act and s 166 of the NCCP Act that CBA failed to assess the Harris Credit Contract as unsuitable if the credit limit increase was made, in contravention of s 131(1) of the NCCP Act.
4. A declaration under ss 19 and 21 of the FCA Act and s 166 of the NCCP Act that in subsequently providing the credit limit increase to Harris, in circumstances where the Harris Credit Contract with the credit limit was unsuitable, CBA contravened s 133(1) of the NCCP Act.
5. A declaration under ss 19 and 21 of the FCA Act and s 166 of the NCCP Act that by each of the contraventions referred to in paragraphs 1 to 4 above, CBA contravened s 47(1)(d) of the NCCP Act.

### Penalties

6. An order pursuant to s 167 of the NCCPA Act that, within 30 days of the order, CBA pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of CBA's conduct declared to be contraventions of:



- 6.1. s 130(1) of the NCCP Act, as referred to in paragraph 1 above;
- 6.2. s 128(d) of the NCCP Act, as referred to in paragraph 2 above;
- 6.3. s 131(1) of the NCCP Act, as referred to in paragraph 3 above; and
- 6.4. s 133(1) of the NCCP Act, as referred to in paragraph 4 above.

**Other orders**

7. An order that the Defendant pay the Plaintiff's costs of and incidental to the proceeding.
8. Such further or other orders as the Court considers appropriate.

**APPLICANT'S ADDRESS**

The Applicant's address for service is:

Australian Government Solicitor,  
Level 34, 600 Bourke St, Melbourne, VIC 3000

Email: Paul.Barker@ags.gov.au

The Australian Government Solicitor's telephone, facsimile, and document exchange numbers are:

Tel: 03 9242 1257

Fax: 03 9242 1333

DX 50 Melbourne

The Applicant's address is:

Level 7, 120 Collins Street  
Melbourne, VIC 3000

**SERVICE ON THE RESPONDENT**

It is intended to serve this application on all Respondents.

Date: 16 March 2020

A handwritten signature in blue ink, appearing to read 'P. Barker'.

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Paul Barker  
AGS lawyer  
for and on behalf of the Australian Government Solicitor  
Lawyer for the Applicant