

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
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File Number: NSD1487/2024
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v QBE INSURANCE (AUSTRALIA) LIMITED ACN 003 191 035
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

Registrar

Important Information

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 date of the filing of the document is determined pursuant to the Court's Rules.



Form 2 Originating process

(rules 2.2 and 15A.3)

No. NSD of 2024

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

IN THE MATTER OF QBE INSURANCE (AUSTRALIA) LIMITED (ACN 003 191 035)

Australian Securities and Investments Commission
Plaintiff

QBE Insurance (Australia) Limited (ACN 003 191 035)
Defendant

A. DETAILS OF APPLICATION

This application is made under ss 12DB(1)(a), (e), (g) and/or (i), 12DF(1), 12GBA(1) (as in force before 13 March 2019 (**amendment day**) and as remaining in force after the amendment day (**old s 12GBA(1)**), 12GBA(1) (as inserted on the amendment day and as in force on and after the amendment day (**new s 12GBA(1)**), 12GGB(1) (as inserted on the amendment day and as in force on and after the amendment day) and 12GLB(1) of the *Australian Securities and Investments Commissions Act 2001* (Cth) (**ASIC Act**) and s 21 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**).

The Plaintiff (**ASIC**) seeks declarations, pecuniary penalties and adverse publicity orders against the Defendant (**QBE**) in respect of conduct liable to mislead the public and/or false or misleading representations based on statements and omissions made by QBE in product disclosure statements (**PDSs**), supplementary product disclosure statements (**SPDSs**) and renewal notices (**Renewal Notices**) regarding discounts to the premium otherwise payable for QBE insurance products (**Discounts**). On the facts stated in the accompanying Concise Statement, ASIC claims:

1. Declarations pursuant to new s 12GBA(1) of the ASIC Act (in respect of conduct occurring wholly on or after the amendment day) and/or s 21 of the Federal Court Act (in respect of all conduct whether occurring before or after the amendment day)

Filed on behalf of (name & role of party)	The Plaintiff, Australian Securities and Investments Commission		
Prepared by (name of person/lawyer)	Nick Kelton, Lawyer, ASIC / Nat Colbert, Lawyer, ASIC		
Tel	(03) 9280 4787 / (02) 9911 2505	Fax	1300 729 000
Email	nicholas.kelton@asic.gov.au / natalie.colbert@asic.gov.au		
Address for service (include state and postcode)	Level 7, 120 Collins Street, Melbourne, Victoria, 3000		



that, between 1 July 2017 and 24 September 2022 (**Relevant Period**), QBE, in contravention of s 12DF(1) of the ASIC Act, engaged in conduct liable to mislead the public as to the nature, the characteristics and/or the suitability for their purpose of financial services, by representing in PDSs and SPDSs that:

- a. where a customer was eligible for a relevant Discount, the premium would be less than the premium without that Discount;
- b. the relevant Discounts are and would be applied in full and without reduction,

in circumstances where, during the Relevant Period, QBE in fact applied pricing mechanisms which had the practical effect of reducing the value of the Discounts (including to nil) in certain circumstances.

2. Declarations pursuant to new s 12GBA(1) of the ASIC Act (in respect of conduct occurring wholly on or after the amendment day) and/or s 21 of the Federal Court Act (in respect of all conduct whether occurring before or after the amendment day) that, during the Relevant Period, QBE, in connection with the supply or possible supply of financial services and/or in connection with the promotion of the supply or use of financial services, contravened ss 12DB(1)(a), (e), (g) and/or (i) of the ASIC Act by making false or misleading representations in Renewal Notices that:

- a. the premium payable by the customer had been calculated taking into account the full value or benefit of the Discounts and savings referred to in the Renewal Notice (as understood in the context of any applicable PDS and SPDS);
- b. the premium payable by the customer was less than it would have been without the benefit of the stated Discounts;
- c. the premium payable by the customer had been reduced by the amounts referred to in the Renewal Notice as discounts and savings,

in circumstances where, during the Relevant Period, QBE in fact applied pricing mechanisms which had the practical effect of reducing the value of the Discounts (including to nil) and thus the customers' premium had not been reduced in the manner or to the extent represented in the Renewal Notices.

3. Orders pursuant to old s 12GBA(1) (in respect of conduct occurring wholly or partly before the amendment day) and s 12GBB(1) (in respect of conduct occurring wholly on or after the amendment day) of the ASIC Act that QBE pay pecuniary



penalties in respect of its contraventions of s 12DF(1) and/or s 12DB(1)(a), (e), (g) and/or (i) of the ASIC Act occurring between 22 October 2018 and 24 September 2022.

4. Adverse publicity orders pursuant to s 12GLB(1) of the ASIC Act, requiring QBE to:
 - a. disclose the contraventions declared in this proceeding, and the circumstances giving rise to those contraventions; and
 - b. publish by form, means and channels to be determined by the Court, at its own expense, those disclosures.
5. An order that QBE pay ASIC's costs.
6. Such further or other order as the Court considers appropriate.

Date: 22 October 2024

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Nick Kelton

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Nick Kelton, lawyer for the plaintiff

This application will be heard by at Federal Court of Australia, 184 Philip Street, Queens Square, NSW, 2000 at *am/*pm on

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: **QBE Insurance (Australia) Limited**
Level 18, 388 George 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.

C. FILING

Date of filing:

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Registrar

This originating process is filed by Nick Kelton, lawyer for the plaintiff.

D. SERVICE

The plaintiff's address for service is Australian Securities and Investments Commission, Level 7, 120 Collins Street, Melbourne VIC 3000.