

FEDERAL COURT OF AUSTRALIA

Australian Securities and Investments Commission v Westpac Banking Corporation [2026] FCA 651

File number(s): VID 695 of 2023

Judgment of: MCEVOY J

Date of judgment: 26 May 2026

Catchwords: **CORPORATIONS** – where defendant holds an Australian financial services licence – where defendant has contravened s 72(4) of the National Credit Code and s 47(1)(a) and (4) of the *National Consumer Credit Protection Act 2009* (Cth) (**Credit Act**) – where defendant failed to respond to hardship notices within prescribed timeframes or at all – where defendant failed to have in place adequate systems, processes and controls – where contravening conduct was substantially admitted – where defendant was under a continuing obligation to respond to hardship notices and committed a separate contravention on each day that it failed to respond pursuant to s 175A of the Credit Act – pecuniary penalties sought against defendant – where contraventions were serious and grossly negligent – where contraventions impacted vulnerable customers and some caused irreparable harm – where defendant has remediated customers and demonstrated contrition and cooperation – consideration of appropriate penalty in the circumstances – penalty of \$26 million found to be appropriate – consideration of adverse publicity order – adverse publicity order made in form of a press release

Legislation: *Australian Securities and Investments Commission Act 2001* (Cth) ss 12GBCM
Bankruptcy Act 1966 (Cth) Pt IX
Corporations Act 2001 (Cth) ss 1317QA, 912A(1)(a)
Crimes Act 1914 (Cth) s 4AA
Evidence Act 1995 (Cth) ss 191, 191(2)
Federal Court of Australia Act 1976 (Cth) s 21
Insurance Contracts Act 1984 (Cth) s 75R
National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 (Cth) Sch 8, Pt 2, item 3
National Consumer Credit Protection Act 2009 (Cth) ss 6, 47, 47(1)(a), 47(4), 166(2), 167, 167(1), 167(2), 167(3),

167B(2), 175, 175A, 177, 182

National Consumer Credit Protection Act 2009 (Cth)
Sch 1, *National Credit Code* ss 4, 72, 72(1), 72(2), 72(4),
72(5), 73, 88, 89A

Superannuation Industry Act 1993 (Cth) s 108A

*Treasury Laws Amendment (Strengthening Corporate and
Financial Sector Penalties) Act 2019* (Cth) Sch 3, Pt 4

National Consumer Credit Protection Regulations 2010
(Cth)

National Credit Protection Bill 2009 (Cth)

Cases cited:

*Australian Building and Construction Commission v
Construction, Forestry, Mining and Energy Union* [2018]
HCA 3; 262 CLR 157

*Australian Building and Construction Commissioner v
Construction, Forestry, Mining and Energy Union* [2017]
FCAFC 113; 254 FCR 68

*Australian Building and Construction Commissioner v
Pattinson* [2022] HCA 13; 274 CLR 450

*Australian Competition and Consumer Commission v
Australian Safeway Stores Pty Ltd* [1997] FCA 450; 145
ALR 36

*Australian Competition and Consumer Commission v Coles
Supermarkets Australia Pty Ltd* [2015] FCA 330; 327 ALR
540

*Australian Competition and Consumer Commission v Dell
Australia Pty Ltd (No 2)* [2023] FCA 983

*Australian Competition and Consumer Commission v Get
Qualified Australia Pty Ltd (in liq) (No 3)* [2017] FCA
1018

*Australian Competition and Consumer Commission v
Leahy Petroleum Pty Ltd (No 3)* [2005] FCA 265; 215 ALR
301

*Australian Competition and Consumer Commission v
Murray Goulburn Co-Operative Co Ltd* [2018] FCA 1964

*Australian Competition and Consumer Commission v
Optus Mobile Pty Limited* [2019] FCA 106

*Australian Competition and Consumer Commission v
Reckitt Benckiser (Australia) Pty Ltd* [2016] FCAFC 181;
340 ALR 25

*Australian Competition and Consumer Commission v TPG
Internet Pty Ltd* [2013] HCA 54; 250 CLR 640

*Australian Competition and Consumer Commission v
Yazaki Corporation* [2018] FCAFC 73; 262 FCR 243

Australian Ophthalmic Supplies Pty Ltd v McAlary-Smith
[2008] FCAFC 8; 165 FCR 560

Australian Securities and Investments Commission v AMP Financial Planning Proprietary Limited [2022] FCA 1115; 164 ACSR 64

Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited [2023] FCA 256

Australian Securities and Investments Commission v Adler [2002] NSWSC 483; 42 ACSR 80

Australian Securities and Investments Commission v AGM Markets Pty Ltd (in liq) (No 3) [2020] FCA 208; 275 FCR 57

Australian Securities and Investments Commission v AGM Markets Pty Ltd (In Liq) (No 4) [2020] FCA 1499; 148 ACSR 511

Australian Securities and Investments Commission v AMP Financial Planning Pty Ltd (No 2) [2020] FCA 69; 377 ALR 55

Australian Securities and Investments Commission v AMP Superannuation Limited [2023] FCA 488; 168 ACSR 206

Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited (Retail Cases Omnibus) [2025] FCA 1593

Australian Securities and Investments Commission v Australia and New Zealand Banking Group Ltd (No 3) [2020] FCA 1421

Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited [2023] FCA 1150; 169 ACSR 649

Australian Securities and Investments Commission v AustralianSuper Pty Ltd [2025] FCA 102; 172 ACSR 615

Australian Securities and Investments Commission v BT Funds Management Ltd [2021] FCA 844

Australian Securities and Investments Commission v Camelot Derivatives Pty Ltd (in liq) [2012] FCA 414; 88 ACSR 206

Australian Securities and Investments Commission v Commonwealth Bank of Australia [2020] FCA 790

Australian Securities and Investments Commission v Commonwealth Bank of Australia [2022] FCA 1422

Australian Securities and Investments Commission v Commonwealth Bank of Australia [2021] FCA 423

Australian Securities and Investments Commission v Commonwealth Bank of Australia [2020] FCA 1543

Australian Securities and Investments Commission v Commonwealth Bank of Australia (No 2) [2021] FCA 966

Australian Securities and Investments Commission v

Darranda Pty Ltd (Liability) [2024] FCA 1015
Australian Securities and Investments Commission v Ferratum Australia Pty Limited (in liq) [2023] FCA 1043; 169 ACSR 553
Australian Securities and Investments Commission v Ferratum Australia Pty Ltd (in liq) (No 2) [2024] FCA 701
Australian Securities and Investments Commission v Financial Circle [2018] FCA 1644; 131 ACSR 484
Australian Securities and Investments Commission v iSignthis Limited (Penalty) [2025] FCA 917
Australian Securities and Investments Commission v Lanterne Fund Services Pty Ltd [2024] FCA 353
Australian Securities and Investments Commission v LGSS Pty Ltd (No 3) [2025] FCA 205; 173 ACSR 641
Australian Securities and Investments Commission v Macquarie Bank Limited [2024] FCA 416
Australian Securities and Investments Commission v Mercer Financial Advice (Australia) Pty Ltd [2023] FCA 1453
Australian Securities and Investments Commission v MLC Limited [2023] FCA 539; 168 ACSR 122
Australian Securities and Investments Commission v MLC Nominees Pty Ltd [2020] FCA 1306; 147 ACSR 266
Australian Securities and Investments Commission v National Australia Bank [2025] FCA 947
Australian Securities and Investments Commission v National Australia Bank Ltd [2022] FCA 1324; 164 ACSR 358
Australian Securities and Investments Commission v National Australia Bank Ltd [2021] FCA 1013
Australian Securities and Investments Commission v National Australia Bank Limited [2020] FCA 1494
Australian Securities and Investments Commission v Noumi Ltd (No 3) [2024] FCA 862
Australian Securities and Investments Commission v OnePath Custodians Pty Ltd [2023] FCA 1485
Australian Securities and Investments Commission v RACQ Insurance Limited [2023] FCA 1503
Australian Securities and Investments Commission v RI Advice Group Pty Ltd [2022] FCA 496; 160 ACSR 204
Australian Securities and Investments Commission v Statewide Superannuation Pty Ltd [2021] FCA 1650
Australian Securities and Investments Commission v Westpac Banking Corporation (No 2) [2018] FCA 751; 266 FCR 147
Australian Securities and Investments Commission v

Westpac Banking Corporation (Omnibus) [2022] FCA 515; 407 ALR 1

Australian Securities and Investments Commission v Westpac Banking Corporation [2019] FCA 2147

Australian Securities and Investments Commission v Westpac Banking Corporation (No 3) [2018] FCA 1701; 131 ACSR 585

Australian Securities and Investments Commission v Westpac Banking Corporation (Penalty Hearing) [2024] FCA 52

Australian Securities and Investments Commission v Westpac Banking Corporation (The Consumer Credit Insurance Case) [2022] FCA 359; 158 ACSR 647

Australian Securities and Investments Commission v Westpac Securities Administration Ltd [2019] FCAFC 187; 272 FCR 170

Australian Securities and Investments Commission v Westpac Securities Administration Limited [2021] FCA 1008; 156 ACSR 614

Chief Executive Officer of the Australian Transaction Reports and Analysis Centre v Westpac Banking Corporation [2020] FCA 1538; 148 ACSR 247

Commonwealth of Australia v Director, Fair Work Building Industry Inspectorate [2015] HCA 46; 258 CLR 482

Construction, Forestry, Maritime, Mining and Energy Union v Fair Work Ombudsman [2023] FCA 72; 322 IR 233

Construction, Forestry, Mining and Energy Union v Cahill [2010] FCAFC 39; 269 ALR 1

Fair Work Ombudsman v Blakely [2023] FCA 1121

Flight Centre Limited v Australian Competition and Consumer Commission (No 2) [2018] FCAFC 53; 260 FCR 68

Forster v Jododex Australia Pty Ltd [1972] HCA 61; 127 CLR 421

Markarian v The Queen [2005] HCA 25; 228 CLR 357

Minister for the Environment, Heritage and the Arts v PGP Developments Pty Limited [2010] FCA 58; 183 FCR 10

Mornington Inn Pty Ltd v Jordan [2008] FCAFC 70; 168 FCR 383

NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission [1996] FCA 1134; 71 FCR 285

R v De Simoni [1981] HCA 31; 147 CLR 383

Singtel Optus Pty Ltd v Australian Competition and Consumer Commission [2012] FCAFC 20; 287 ALR 249

Story v National Companies and Securities Commission
(1988) 13 NSWLR 661

Trade Practices Commission v CSR Ltd [1990] FCA 762;
[1991] ATPR 41-076

Australian Securities and Investments Commission v
Membo Finance Pty Ltd (No 2) [2023] FCA 126

Volkswagen Aktiengesellschaft v Australian Competition
and Consumer Commission [2021] FCAFC 49; 284 FCR
24

Division: General Division

Registry: Victoria

National Practice Area: Commercial and Corporations

Sub-area: Commercial Contracts, Banking, Finance and Insurance

Number of paragraphs: 203

Date of last submission/s: 29 August 2025

Date of hearing: 26 May 2025

Counsel for the Applicant: C H Truong KC and A Storey

Solicitor for the Applicant: Australian Securities and Investments Commission

Counsel for the Respondent: K C Morgan SC and A Ilic

Solicitor for the Respondent: Clayton Utz

ORDERS

VID 695 of 2023

BETWEEN: **AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION**
Applicant

AND: **WESTPAC BANKING CORPORATION ACN 007 457 141**
Respondent

ORDER MADE BY: MCEVOY J

DATE OF ORDER: 26 MAY 2026

DEFINITIONS

In these declarations and orders, terms have the following meanings:

- (a) **Agreed Contravention Period** means 4 September 2017 to 8 May 2023.
- (b) **Code** means the National Credit Code, being Schedule 1 to the Credit Act, as in force during the Relevant Period and the Agreed Contravention Period.
- (c) **Credit Act** means the *National Consumer Credit Protection Act 2009* (Cth) as in force during the Agreed Contravention Period and the Relevant Period.
- (d) **Credit Licence** means Australian Credit Licence.
- (e) **Online Hardship Notice** means a hardship notice submitted to Westpac by a customer (who had entered into a credit contract, within the meaning of s 4 of the Code, with Westpac or the Other Westpac Brands) by completing an online form via the public websites of Westpac and the Other Westpac Brands.
- (f) **Other Westpac Brands** mean St George, BankSA and Bank of Melbourne, which operated under Westpac's Credit Licence and were trading brands of Westpac during the Relevant Period and the Agreed Contravention Period.
- (g) **Relevant Period** means 2 October 2015 to 7 June 2023.
- (h) **Westpac** means the respondent, Westpac Banking Corporation (ACN 007 457 141).
- (i) **Westpac Customer Assist Team** means the team at Westpac which actioned the Online Hardship Notices.

- (j) **Written Decision Notice** means a written notice in response to a customer's Online Hardship Notice as required by s 72(4) of the Code.

THE COURT DECLARES THAT:

1. From 2 October 2015, Westpac failed to give a Written Decision Notice in response to customers' Online Hardship Notices, within the timeframe required by s 72(4) and (5) of the Code, or at all, and thereby contravened s 72(4) of the Code:
 - (a) on each occasion 223 Online Hardship Notices were submitted by a customer during the Agreed Contravention Period; and
 - (b) on each occasion 277 Online Hardship Notices were submitted by a customer during the Relevant Period (which includes the 223 Online Hardship Notices referred to in subparagraph (a)).
2. During the Relevant Period, for each customer who submitted an Online Hardship Notice prior to 4 September 2017 and who did not receive a Written Decision on or after 13 March 2019, pursuant to s 175A(1) of the Credit Act Westpac:
 - (a) was under a continuing obligation to respond to each Online Hardship Notice by giving a Written Decision Notice;
 - (b) committed a separate contravention of s 72(4) of the Code each day it failed to give a Written Decision Notice in response to each Online Hardship Notice, within the timeframe required by s 72(4) and (5) of the Code; and
 - (c) is deemed to have contravened section 72(4) of the Code on and after 13 March 2019 in relation to each relevant customer.
3. In the period from 13 March 2019 to 7 June 2023, Westpac failed to do all things necessary to ensure that the credit activities authorised by the credit licence are engaged in efficiently, honestly and fairly, and thereby contravened s 47(1)(a) and (4) of the Credit Act, in that during that period Westpac:
 - (a) did not maintain adequate systems, controls and processes which ensured that:
 - (i) Online Hardship Notices submitted by customers were received by the Westpac Customer Assist team; and
 - (ii) Written Decision Notices were given to customers within the timeframes prescribed by s 72(4) and (5) of the Code; and

- (b) did not conduct adequate risk reviews, investigations, monitoring and analysis of its Online Hardship Notice systems and processes to enable it to identify any issues with its systems or processes, or to otherwise ensure that its Online Hardship Notice systems and processes enabled compliance with s 72(4) and (5) of the Code.

THE COURT ORDERS THAT:

1. Westpac pay to the Commonwealth of Australia a pecuniary penalty of \$26 million, within 30 days of the date of these orders, in respect of Westpac's contraventions of s 72(4) of the Code and s 47(1)(a) and (4) of the Credit Act as identified in declarations 1 to 3 above.
2. Pursuant to s 182 of the Credit Act, within 14 days of the date of these orders, Westpac publish, at its own expense, a written adverse publicity notice (**Written Publicity Notice**) in terms set out in Annexure A to these orders, for a period of no less than 90 days, maintaining a copy of the Written Publicity Notice, in 10 point font or larger, in an immediately visible area of the following web addresses:
 - (a) <https://www.westpac.com.au/>;
 - (b) <https://www.stgeorge.com.au/>;
 - (c) <https://www.bankofmelbourne.com.au/>; and
 - (d) <https://www.banksa.com.au/>.
3. Pursuant to s 177 of the Credit Act, Westpac, at its own cost:
 - (a) within one month, implement system, operational and process changes that are adequate to ensure Online Hardship Notices are responded to within the time limits specified by s 72(4) and (5) of the Code; and
 - (b) within one month of implementing the changes referred to in subparagraph (a):
 - (i) appoint a suitably qualified independent expert agreed between Westpac and the Australian Securities and Investments Commission (**ASIC**) (or, failing agreement, determined by the Court); and
 - (ii) instruct the expert to prepare and provide to ASIC a written report on the outcome of the implementation of the changes referred to in subparagraph (a), including as to whether and to what extent the changes have been fully and effectively implemented in accordance with these

orders, and provide recommendations to Westpac to remedy any aspects of Westpac's systems, operations and processes to ensure compliance with s 72(4) and (5) of the Code;

- (c) within six months after appointing the expert referred to in subparagraph (b):
 - (i) provide to ASIC a copy of the report referred to in subparagraph (b) above; and
 - (ii) state what steps Westpac has taken to give effect to the expert's recommendations.

4. Westpac pay ASIC's costs of the proceeding, to be agreed or assessed.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

ANNEXURE A

Adverse Publicity Order

The Federal Court of Australia has ordered Westpac Banking Corporation to publish this written adverse publicity notice.

On 26 May 2026 Justice McEvoy of the Federal Court of Australia ordered Westpac Banking Corporation (**Westpac**) to pay a total pecuniary penalty of \$26 million in connection with Westpac's failure to receive, and respond to, customers' online hardship notices within the timeframes required by law throughout the period of 2 October 2015 to 7 June 2023 (**Relevant Period**). Affected customers include Westpac customers and St George, BankSA and Bank of Melbourne customers, who operated under Westpac's Australian credit licence.

Justice McEvoy imposed the \$26 million pecuniary penalty after declaring that, by that conduct:

- (a) Westpac had failed to do all things necessary to ensure that the credit activities authorised by the credit licence were engaged in efficiently, honestly and fairly; and
- (b) Westpac had failed to comply with consumer credit law.

Westpac failed to give a written response to 277 customers' online hardship notices during the Relevant Period.

Westpac made admissions of contravention in the proceeding. Westpac also cooperated with ASIC in the investigation and during the proceeding.

Prior and during the proceeding, Westpac conducted a remediation program in which it paid a total of \$1,735,126.81 in remediation to impacted customers and apologised for its conduct. This remediation program was broader than the 277 customers that were subject to the proceeding.

Westpac has committed to funding and implementing new technology systems and processes for receiving and responding to online hardship notices.

Further information

The above conduct contravened the following consumer credit laws:

- Section 72(4) and (5) of the *National Credit Code*, being Schedule 1 to the *National Consumer Credit Protection Act 2009* (Cth); and
- Section 47(1)(a) and (4) of the *National Consumer Credit Protection Act 2009* (Cth).

For further information about the conduct, see the following:

- The court's judgment on penalty [hyperlink];
- Australian Securities and Investments Commission media release [hyperlink]; and
- Statement of facts agreed between the parties to the proceeding which is Annexure A to the court's judgment [hyperlink].

REASONS FOR JUDGMENT

MCEVOY J:

- 1 The applicant in this proceeding, the Australian Securities and Investments Commission (**ASIC**), alleges that Westpac Banking Corporation (**Westpac**) has contravened s 72(4) of the National Credit Code (**Code**) and s 47(1)(a) and (4) of the *National Consumer Credit Protection Act 2009* (Cth) (**Credit Act**) by failing to respond to online financial hardship requests made by vulnerable customers who were unable to meet their repayment obligations under a credit contract. The reasons for these requests varied, but they included serious health issues, unemployment during the COVID-19 pandemic, and family violence.
- 2 ASIC alleges that at least between 4 September 2017 and 8 May 2023 (**Agreed Contravention Period**) Westpac did not, either within the period prescribed by s 72(5) of the Code or at all, respond to certain online hardship notices submitted by its retail customers. ASIC also alleges that in the period between 13 March 2019 and 7 June 2023 Westpac failed to do all things necessary to ensure that the credit activities authorised by its credit licence were engaged in efficiently, honestly and fairly. Westpac substantially admits the conduct alleged by ASIC, and admits that it has contravened s 72(4) of the Code during the Agreed Contravention Period and that it has contravened s 47(1)(a) and (4) of the Credit Act during the period 13 March 2019 to 7 June 2023. Westpac also accepts that its conduct was serious.
- 3 There is, however, a dispute between the parties as to two matters. The first is the form of the declarations which are to be made by the court in respect of Westpac's contraventions. The issue relates principally to the number of online hardship notices that are properly to be the subject of the declaration of contravention of s 72(4) of the Code. This dispute falls to be resolved through a determination of the proper construction and effect of s 175A of the Credit Act. ASIC's construction of s 175A of the Credit Act, and the additional notices in respect of which it seeks declarations of contravention, encompass a broader period of time than the Agreed Contravention Period. This period is from 2 October 2015 to 7 June 2023 (**Relevant Period**).
- 4 In addition to declarations of contravention, compliance orders and an adverse publicity order, ASIC seeks that Westpac be required to pay a pecuniary penalty for its contraventions in the amount of \$30 million. This is comprised of \$20 million for the contraventions of s 72(4) of the Code and \$10 million for the contraventions of s 47 of the Credit Act. Westpac's position

as to penalty is that a total penalty in this amount would be excessive and inappropriate, and that a penalty in the order of \$10 million would be more appropriate. This is the second dispute between the parties.

5 The parties have jointly prepared and filed a statement of agreed facts (**SOAF**) pursuant to s 191 of the *Evidence Act 1995* (Cth) (**Evidence Act**). While the court is not required to accept the SOAF uncritically, in this case I accept it as credible and cogent, and proof of the facts it contains. The effect of the SOAF is that evidence to prove the facts that it contains is not necessary, and the court has before it a sufficient factual foundation to support the exercise of its power to make declarations and impose a penalty: Evidence Act s 191(2); *Minister for the Environment, Heritage and the Arts v PGP Developments Pty Limited* [2010] FCA 58; 183 FCR 10 at [35] (Stone J); *Australian Securities and Investments Commission v Commonwealth Bank of Australia* [2020] FCA 790 at [12] (Beach J) (**ASIC v Commonwealth Bank of Australia**).

6 In addition to the SOAF, in support of its position regarding liability and penalty ASIC relies upon:

- (a) the affidavit of Mr Andrew Fleming affirmed on 29 April 2024 (**Fleming Affidavit**);
- (b) the affidavit of Mr Michael Dorman affirmed on 17 July 2024;
- (c) written submissions on liability and penalty dated 19 March 2025;
- (d) written submissions in reply dated 6 May 2025; and
- (e) supplementary written submissions dated 29 August 2025.

7 In support of its position regarding liability and penalty Westpac relies upon:

- (a) the affidavit of Mr Alexander McNab Stewart affirmed on 24 June 2024 (**Stewart Affidavit**);
- (b) the affidavit of Ms Ananya Roy affirmed on 27 June 2024; (**Roy Affidavit**)
- (c) written submissions on liability and penalty dated 23 April 2025; and
- (d) supplementary written submissions dated 29 August 2025.

8 For the reasons that follow there will be declarations and orders substantially in the form sought by ASIC. Insofar as pecuniary penalty is concerned, I have determined that Westpac should be ordered to pay a total penalty of \$26 million.

THE LEGISLATIVE SCHEME

9 Before turning to the underlying facts and contraventions themselves, it is useful to commence with an overview of the relevant legislative scheme under the Code and the Credit Act. The specific provisions relevant to Westpac's conduct will be the subject of later consideration.

10 The Code is contained in Schedule 1 to the Credit Act. It provides a consumer protection framework for consumer credit and related transactions. The Code relevantly provides debtors with a right to seek that credit contracts be amended or varied on the basis of financial hardship: see Explanatory Memorandum, National Credit Protection Bill 2009 (Cth) at [8.2], [8.159]–[8.162].

11 Section 72 of the Code provides a procedural mechanism by which debtors may notify credit providers of financial hardship and seek to make changes to their credit contracts where such contracts are regulated by the Code. As Yates J accepted in *Australian Securities and Investments Commission v Membo Finance Pty Ltd (No 2)* [2023] FCA 126 at [29] (*Membo Finance (No 2)*), this section provides an important formal mechanism to protect consumers who may be vulnerable when experiencing financial hardship.

12 Pursuant to s 72(1) of the Code, a debtor who considers that they are unable to meet their obligations under a credit contract, may give notice to the credit provider of that inability. Such notice is generally referred to as a hardship notice.

13 After receiving a hardship notice, a credit provider must give written notice to the debtor that advises them of the outcome of their hardship notice in accordance with the content and timing requirements in s 72(4) and (5) of the Code (**decision notice**). A credit provider may request further information from the debtor with respect to their hardship notice under s 72(2) of the Code. Relevantly, s 89A of the Code provides that in certain circumstances where a hardship notice has been given by a debtor, a credit provider must not begin enforcement proceedings against that debtor unless the credit provider has given the debtor a written decision notice stating that the credit contract will not be changed, and 14 days has expired since such notice was given.

THE RELEVANT FACTS

14 As has been mentioned, the facts agreed by the parties for the purposes of this proceeding are set out in the SOAF, which is annexed to these reasons. I will not therefore describe the facts

in any more detail than is necessary to resolve the outstanding liability issue and the question of appropriate penalty.

- 15 At all material times Westpac held an Australian credit licence which authorised it to engage in credit activities within the meaning of s 6 of the Credit Act and provide credit pursuant to credit contracts to which the Code applies. St George, BankSA and Bank of Melbourne (**Other Westpac Brands**) also operated under Westpac’s Australian credit licence and were, and continue to be, trading brands of Westpac. It is sometimes necessary to refer specifically to the Other Westpac Brands in these reasons, but a reference to Westpac should be taken to be a reference to the respondent entity that held the credit license under which its subsidiaries operated.
- 16 From 16 July 2015 to 28 February 2023 “financial hardship” was described in Westpac’s financial hardship policies (as well as those of the Other Westpac Brands) as occurring when a customer is “willing but unable to meet their existing financial obligations for a period of time”. Examples of situations which might cause financial hardship were listed in these policies, and included unemployment, reduced income, injury or illness (including carer responsibilities), death of a family member, natural disaster, over commitment or indebtedness and vulnerability. The types of financial assistance offered to customers were described at various times in these policies as including: loan extensions; short term reduced payments; short term moratorium; interest rate reduction; debt settlement; debt waiver; and any contractual rearrangement that Westpac considered appropriate.
- 17 The policies recognised also that customers may experience “extreme hardship” as a result of circumstances including “severe or terminal illness, disablement, long term unemployment [and] long-term loss of contract or supplier”. They provided that customers experiencing incurable or permanent financial hardship “may be candidates for long-term or permanent collection arrangements”. Such arrangements included long term payment plans, partial write-offs and the allowance of time for customers to sell their property (after 1 July 2019).
- 18 During the Relevant Period, the policies stated that Westpac would respond to a hardship notice submitted by a customer in respect of which no further information was required within 21 days of the date that the notice was received. The policies set out the procedure by which further information could be requested if necessary. Pursuant to the policies, once a hardship notice had been assessed, as was required under the Code, Westpac was to provide the customer with a written decision notice and provide reasons.

- 19 The policies provided that in circumstances where Westpac had or had cause to issue a default notice to a customer under s 88 of the Code, Westpac would not take enforcement action unless it had given a written decision notice to a customer and a period of 14 days had elapsed. This aspect of the policies essentially mirrored s 89A of the Code.
- 20 Westpac’s financial hardship policies incorporated, in their appendices, commitments under the Australian Banking Association’s Banking Code of Practice (**Banking Code of Practice**) as they applied from time to time. Westpac (and the Other Westpac Brands) have been signatories to the Banking Code of Practice since 1 February 2014. The Banking Code of Practice is a voluntary set of commitments which includes commitments to customers experiencing financial difficulty. ASIC submits, and I accept, that each relevant credit contract in this proceeding incorporated the terms of the Banking Code of Practice. Westpac did not contend that the position was otherwise.
- 21 From 2 October 2015, customers who entered into a credit contract within the meaning of s 4 of the Code with Westpac or the Other Westpac Brands could give a hardship notice by completing an online form via the public websites of Westpac and the Other Westpac Brands. It will be apparent that these online hardship notices were, relevantly, the means by which Westpac’s customers notified Westpac that they were unable to meet their obligations under a credit contract. Westpac’s systems were intended to work such that after submission, the online hardship notice would be processed by a certain automated system known as the “OneClick” system, then transferred to other automated systems and then to Westpac’s “Customer Assist” team, which was the team responsible for determining the customer’s request. The system(s) to which an online hardship notice was transferred depended on the credit product(s) to which the hardship notice related. The details of the relevant Westpac systems and processes are set out in Part C of the SOAF.
- 22 Also from 2 October 2015, at least 1,013 online hardship applications submitted by 1,003 customers were either not sent to Westpac’s Customer Assist team for processing, or were not processed properly, or at all, by Westpac. Westpac did not give a written decision notice in response to 277 of these online hardship notices submitted by affected customers within the statutory timeframe prescribed by s 72(5) of the Code, or at all. The parties agree that 223 online hardship notices fall within the Agreed Contravention Period. Westpac’s failures in this regard are set out in Parts D and E of the SOAF.

- 23 It is to be noted that the references in Part D of the SOAF to 1,014 online hardship notices submitted by 1,004 customers and to Westpac not having given a written decision notice in response to 288 online hardship notices in total, are incorrect. The parties agree, due to circumstances that are unnecessary to describe here but which are explained in the Roy Affidavit, that this aspect of the SOAF was incorrect. They agree that the correct number of online hardship applications submitted, the number of customers, and the number that were not responded to, are those that have been set out above. It is also apparent that the reference to Westpac not having given a written decision notice in response to 224 online hardship notices at paragraph [14] of the SOAF is a typographical error.
- 24 During the Agreed Contravention Period Westpac accepts that its systems and processes for online hardship notices were deficient in several material respects. These include system failures, IT errors, and operational or processing deficiencies. Indeed Westpac accepts that its “OneClick” system which was supposed to process and transfer online hardship notices to other systems, as well as its other systems processes and operations for online hardship notices, were defective. The details of the deficiencies and failures in the systems are set out in Part E of the SOAF.
- 25 In its written submissions ASIC summarises Westpac’s contraventions as arising from the following four system failures and three operational failures:
- (a) network connectivity failures and a batching process error affecting the transfer of online hardship applications from Westpac’s OneClick system database to a central drive called the “J Drive” (**System Failure A**);
 - (b) a file transfer batch configuration error affecting the transfer of online hardship applications from the J Drive to the “App105” system (**System Failure B**);
 - (c) a technical error permitting customers to submit an online hardship application without a valid Westpac account number which applications were not transferred further (**System Failure C**);
 - (d) data formatting issues in the online application form which prevented some forms from loading in collections systems for action to be taken (**System Failure D**);
 - (e) human error in that missing applications appearing in a reconciliation report were not raised with the correct teams for action to be taken (**Operational Failure A**);

- (f) human error in that those responsible for sending missing applications forming part of System Failure A did not send those applications through (**Operational Failure B**); and
- (g) various other human errors resulting in action not being taken in relation to hardship applications (**Operational Failure C**).

26 ASIC submits that although each System and Operational Failure has different underlying causes, each failure and delay in rectification stemmed from what it describes as Westpac’s “complex, aging and inadequate IT platforms, systems and processes” and Westpac’s “chronic underfunding to improve them.”

27 Westpac identified System Failure A on 31 January 2022. The circumstances in which the System Failure was identified are set out in the SOAF and it is unnecessary to repeat them, save to note that the identification was due to a customer having called Westpac to request information regarding their online hardship application. Westpac identified the other System and Operational Failures at certain times between 31 January 2022 and 7 June 2023.

28 Between 12 September 2017 and 31 January 2022, Westpac had received 16 customer complaints regarding online hardship notices that had not been responded to, and had itself identified “missing” online hardship notices during that time.

29 As is set out in Part F of the SOAF, a number of internal IT “tickets” and other internal incident reports were raised within Westpac, including in its risk and compliance management system, identifying that online hardship notices were “missing” or had not been received by the Customer Assist team. The issues and failures with the automated systems were, however, not substantially investigated until the investigation that led to the identification of System Failure A in January 2022.

30 The consequences of Westpac’s failures, the remediation that has been provided, and the action Westpac has otherwise taken to address the system failures will be addressed further below. These matters are described more fully in the SOAF. It is relevant to note, however, that during the Relevant Period Westpac took action in relation to certain customers’ debt despite them having submitted an online hardship notice. That action included the recording of adverse credit information and default on some affected customer’s credit files, and referring certain customers to third-party debt collectors who then pursued the debts.

31 Westpac reported the deficiencies in its systems in relation to System Failure A to ASIC on 3
March 2022. It also subsequently reported the deficiencies in relation to the other System and
Operational Failures to ASIC, and provided several breach report updates. These are set out in
detail at paragraphs [27], [38], [48], [57], [66], [73], [79] and Annexures B to H to the SOAF.

32 As has been mentioned, Westpac accepts that the contravening conduct was serious. Westpac
also acknowledges that the time taken to identify the issues with its online hardship process
and the customers affected as a consequence is “disappointing”. Those affected, particularly
those the subject of adverse credit reporting and debt recovery action, may have used stronger
language.

THE CONTRAVENTIONS

33 Despite Westpac having substantially admitted the contraventions, it is necessary to consider
the contraventions which have been alleged. It is convenient first to consider Westpac’s
contraventions of s 72 of the Code, including the total number of hardship notices relevant to
those contraventions by reference to s 175A the Credit Act, before turning to Westpac’s
contraventions of s 47 of that Act.

Westpac’s contraventions of s 72 of the Code

The terms of s 72 of the Code

34 Section 72 of the Code is in the following terms:

72 Changes on grounds of hardship

Hardship notice

- (1) If a debtor considers that he or she is or will be unable to meet his or her obligations under a credit contract, the debtor may give the credit provider notice (a **hardship notice**), orally or in writing, of the debtor’s inability to meet the obligations.

Note: If the debtor gives the credit provider a hardship notice, there may be requirements (beyond those in section 88) that the credit provider must comply with before beginning enforcement proceedings—see section 89A.

Further information

- (2) Within 21 days after the day of receiving the debtor’s hardship notice, the credit provider may give the debtor notice, orally or in writing, requiring the debtor to give the credit provider specified information within 21 days of the date of the notice stated in the notice. The information specified must be relevant to deciding:
 - (a) whether the debtor is or will be unable to meet the debtor’s

obligations under the contract; or

- (b) how to change the contract if the debtor is or will be unable to meet those obligations.
- (3) The debtor must comply with the requirement.

Note: The credit provider need not agree to change the credit contract, especially if the credit provider:

- (a) does not believe there is a reasonable cause (such as family violence, illness or unemployment) for the debtor's inability to meet his or her obligations; or
- (b) reasonably believes the debtor would not be able to meet his or her obligations under the contract even if it were changed.

Notice of decision on changing credit contract

- (4) The credit provider must, before the end of the period identified under subsection (5), give the debtor a notice:

(a) that is in the form (if any) prescribed by the regulations and records the fact that the credit provider and the debtor have agreed to change the credit contract; or

(b) that is in the form (if any) prescribed by the regulations and states:

(i) the credit provider and the debtor have not agreed to change the credit contract; and

(ii) the reasons why they have not agreed; and

(iii) the name and contact details of the AFCA scheme; and

(iv) the debtor's rights under that scheme.

Civil penalty: 5,000 penalty units.

- (4A) Subsection (4) does not apply if the credit provider and the debtor agree to a change to the credit contract that defers or otherwise reduces the obligations of the debtor under that contract for a period not exceeding 90 days.

- (5) The credit provider must give the notice before the end of the period identified using the table.

Period for giving notice		
	If:	The period is:
1	The credit provider does not require information under subsection (2)	21 days after the day of receiving the hardship notice
2	The credit provider requires information under subsection (2) but does not receive any information in compliance with the requirement	28 days after the stated date of the notice under subsection (2)
3	The credit provider requires information under subsection (2) and receives	21 days after the day of receiving the information

Regulations may prescribe shorter periods for credit contracts

- (6) The regulations may provide for subsections (2), (3), (4) and (5) to have effect in relation to credit contracts prescribed by the regulations as if a particular reference in subsection (2) or (5) to a number of days were a reference to a lesser number of days prescribed by the regulations.

35 The current version of s 72(4) of the Code came into effect on 1 March 2013 and applies to credit contracts entered into after that date. Save for an increase in penalty units, the amendments that were made during the Agreed Contravention Period were minor and are unnecessary to describe in these reasons.

36 As ASIC submits, there are four elements required to establish a contravention of s 72(4) of the Code as follows:

- (1) the contract was a credit contract within the meaning of s 4 of the Code;
- (2) a hardship notice has been given pursuant to s 72(1) of the Code;
- (3) the credit contract to which the hardship notice related was entered into on or after 1 March 2013; and
- (4) the credit provider did not provide to the debtor a decision notice within the relevant statutory timeframe set out in s 72(5) of the Code.

37 The *National Consumer Credit Protection Regulations 2010* (Cth) (**Regulations**) do not prescribe the form that a hardship notice provided by a debtor to a creditor pursuant to s 72(4) of the Code should take. However, the case law indicates that such a notice must be in writing: *Membo Finance (No 2)* at [32]. Further, as ASIC notes, the Code does not prescribe the changes that may be made to a credit contract as a result of a creditor determining that a debtor is suffering hardship in the relevant sense, however s 73 of the Code does require that the particulars of any change be provided to a debtor in writing no later than 30 days after there has been agreement to the change or changes.

The admitted contraventions

38 Westpac admits that during the Agreed Contravention Period it failed to respond to 223 online hardship notices which were submitted by customers of Westpac and the Other Westpac Brands within the period prescribed in s 72(5) of the Code, or at all. With respect to each of these

occasions it accepts that the four elements of s 72(4) (as set out in paragraph 36) are established. It therefore admits that it has contravened s 72(4) with respect to these 223 hardship notices.

39 Having regard to the SOAF and the evidence tendered by the parties, in particular the information and documents contained in the Fleming Affidavit, as well as the admissions made by Westpac, I am satisfied that Westpac contravened s 72 on at least 223 occasions as alleged by ASIC.

Westpac's further contraventions of s 72 of the Code

40 As has been mentioned, Westpac does not admit to the totality of the contraventions of s 72 of the Code alleged by ASIC. That is to say that ASIC alleges that Westpac has contravened s 72 of the Code with respect to an additional 54 online hardship notices the subject of ASIC's proposed declaration, and Westpac denies this. As has also been mentioned, the difference in the number of hardship notices alleged by ASIC and agreed to by Westpac results from the parties having taken differing positions as to the proper construction and effect of s 175A of the Credit Act. Westpac's position in essence is that ASIC is unable to seek declarations with respect to the additional 54 online hardship notices because they were provided to Westpac prior to the Agreed Contravention Period and are therefore outside the limitation period for this proceeding.

41 In these circumstances, the main liability issue for the court to determine is the effect of s 175A of the Credit Act and, in consequence, whether a declaration of a contravention of s 72(4) of the Code should be made in respect of the 223 affected notice customers (as Westpac contends) or the 277 affected notice customers (as ASIC contends).

The effect of s 175A of the Credit Act

42 Section 175A of the Credit Act is in the following terms:

- (1) If an act or thing is required under a civil penalty provision to be done:
 - (a) within a particular period; or
 - (b) before a particular time;then the obligation to do that act or thing continues until the act or thing is done (even if the period has expired or the time has passed).
- (2) A person who contravenes a civil penalty provision that requires an act or thing to be done:
 - (a) within a particular period; or

(b) before a particular time;

commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant pecuniary penalty order is made or any later day).

43 Section 175A of the Credit Act was introduced as part of the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019* (Cth) (**Strengthening Penalties Act**) and commenced on 13 March 2019. That Act introduced almost identical continuing contravention provisions in s 1317QA of the *Corporations Act 2001* (Cth) (**Corporations Act**), s 12GBCM of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), and s 75R of the *Insurance Contracts Act 1984* (Cth).

44 Schedule 3, Pt 4 of the Strengthening Penalties Act sets out the transitional provisions for s 175A of the Credit Act, which relevantly states:

Subject to this Part, the amendments made by Schedule 3 to the [Strengthening Penalties Act] apply in relation to the contravention of a civil penalty provision if the conduct constituting the contravention of the provision occurs wholly on or after the commencement day.

See also *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Cth) Sch 8, Pt 2, item 3 (**Transitional Provisions Act**).

45 The Explanatory Memorandum to the Strengthening Penalties Act at [1.113] explains the operation of s 175A as follows:

Contravening a civil penalty provision does not relieve the person of their obligations under the provision. If an act or thing is required to be done, the obligations continue until the act or thing is done. This means that if the act or thing is not done, the civil penalty provision is initially contravened, and a separate contravention is then committed each day until the act or thing is done.

46 Section 175A of the Credit Act does not operate retrospectively. The Revised Explanatory Memorandum to the Strengthening Penalties Act provides at [1.248]:

The amendments made by this Bill in relation to a contravention of a civil penalty provision apply to contraventions that occur wholly on or after the commencement day of this Bill.

47 At the time of the hearing in this proceeding, there had been no judicial consideration of s 175A of the Credit Act and limited judicial consideration of the transitional provisions. Section 175A of the Credit Act has subsequently been considered in *Australian Securities and Investments Commission v National Australia Bank* [2025] FCA 947 (Neskovcin J) (**ASIC v NAB**) and *Australian Securities and Investments Commission v Australia and New Zealand Banking*

Group Limited (Retail Cases Omnibus) [2025] FCA 1593 (Beach J) (*ASIC v ANZ (Retail Omnibus)*). In both cases, their Honours found that s 175A of the Credit Act provides that a credit provider's obligation to give a notice under s 72(4) of the Code continues until that act is done, and that a credit provider who contravenes s 72(4) of the Code commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant pecuniary penalty order is made or any later day): *ASIC v NAB* at [26]; *ASIC v ANZ (Retail Omnibus)* at [63]. In both these cases, however, the declarations of contravention related only to conduct that had occurred after 13 March 2019. It remains that there has been no judicial consideration of the application of s 175A of the Credit Act to s 72(4) of the Code that is of assistance in circumstances where ASIC seeks declarations with respect to conduct that occurred in part prior to 13 March 2019.

48 Westpac contends that the judicial consideration of the transitional provisions does not offer any adequate guidance as to the effect of s 175A on s 72(4) of the Code in the present context. By contrast, ASIC submits that a number of these cases are informative as to the effect of s 175A. First ASIC draws attention to *Australian Securities and Investments Commission v AustralianSuper Pty Ltd* [2025] FCA 102; 172 ACSR 615 (*ASIC v AustralianSuper*), in which AustralianSuper had admitted that in the period 1 July 2013 to 19 June 2022 it failed to establish rules as required by s 108A of the *Superannuation Industry Act 1993* (Cth). In that case ASIC had sought civil penalties under s 912A(1)(a) and (5A) of the Corporations Act for failures that occurred between 13 March 2019 to 20 June 2022. Justice Hespe observed (at [164]) that:

It is only conduct occurring wholly on or after the commencement date which results in the contravention of s 912A(5A) and which attracts the civil penalty provision. However, the fact that contravening conduct commenced occurring prior to the commencement date and continued after the commencement date does not prevent a determination of a contravention in respect of the conduct that occurred after the commencement date. Such an outcome is consistent with the approach adopted in *Australian Securities and Investments Commissioner v Westpac Banking Corporation* [2022] FCA 515 at [409]–[412] (Beach J) and in *Australian Securities and Investments Commission v Macquarie Bank Limited* [2024] FCA 416 at [69] (Wigney J).

49 ASIC also referred the court to the treatment of analogous substantive provisions, namely s 1317QA of the Corporations Act. This section was discussed briefly in *Australian Securities and Investments Commission v Statewide Superannuation Pty Ltd* [2021] FCA 1650 (*Statewide Superannuation*) and *Australian Securities and Investments Commission v Noumi Ltd (No 3)* [2024] FCA 862 (*Noumi*). In *Statewide Superannuation* at [88]–[89], Besanko J held that in the context of the defendant failing to lodge a written breach report with ASIC within the statutory timeframe under the Corporations Act there was a separate contravention on each day

that the defendant failed to lodge the report. In *Noumi* at [49]–[50], Jackman J held that by operation of s 1317QA of the Corporations Act separate and continuing contraventions of s 674(2) of the Corporations Act occurred on each trading day in the relevant periods. However, the issue of whether contraventions occurred “wholly” after 13 March 2019 did not arise in either proceeding.

50 Turning then to the parties’ submissions on this issue, ASIC contends that s 175A of the Credit Act enlivens penalties for contraventions that would otherwise be barred by the limitation in s 167 of that Act. Its position is that where a contravention of s 72 of the Code (being the obligation to give a decision notice under s 72(4) by the prescribed timeframes) occurred prior to six years before these proceedings were commenced (being prior to 4 September 2017) but continued on or after 13 March 2019, s 175A of the Credit Act allows ASIC to seek penalties in respect that contravention.

51 Westpac submits, however, that the usual limitation period of six years ought to apply in this proceeding, precluding both the making of a declaration or the imposition of a pecuniary penalty on Westpac in relation to contraventions that occurred prior to 4 September 2017. Westpac contends that ASIC’s submission that s 175A of the Credit Act has the effect of permitting it to allege contraventions outside the limitation period should not be accepted.

52 Westpac submits that to apply s 175A of the Credit Act to s 72(4) of the Code it is necessary to determine whether *each* constituent element of a contravention occurred *wholly* on or after 13 March 2019. It submits that for the purpose of that analysis the elements of a contravention of s 72(4) of the Code are:

- (a) that the debtor gave the hardship notice (s 72(1) of the Code); and
- (b) that the credit provider failed to give notice of their determination of the hardship notice within the prescribed time (ss 72(2), (4) and (5) of the Code).

53 Westpac illustrates its submission by way of an example in which a customer provided an online hardship notice to Westpac on 5 July 2016. Westpac was required to respond to that notice on 27 July 2016. Thus, in Westpac’s submission, the contravention was complete on 28 July 2016 (the day after compliance was required). Other than by operation of s 175A, the contravention did not continue despite the written decision not being given by that date, or at all. Westpac contends that the words “occur wholly on or after” in the transitional provisions expressly limit the operation of s 175A of the Credit Act such that each contravention of s 72(4)

that occurred prior to 13 March 2019 was completed and concluded on the day the credit provider failed to comply with its obligations to provide a determination of the hardship notice. Westpac submits that ASIC’s interpretation of s 175A of the Credit Act finds no support in the drafting of the section, is contrary to the express language of the transitional provisions, and is inconsistent with ss 166 and 167 of the Credit Act.

54 Nonetheless, for the following reasons, and having regard to the explanatory memoranda and the authorities set out above, I prefer ASIC’s submissions as to the effect of s 175A of the Credit Act. I accept, as ASIC submits, that the transitional provisions which have been referred to apply to s 175A of the Credit Act and not s 72 of the Code. The focus of the enquiry is whether the relevant conduct constitutes a contravention of s 175A of the Credit Act, and whether that conduct occurred wholly on or after 13 March 2019. The conduct to which s 175A of the Credit Act applies is a continuing obligation to do an act or thing. Here that is the giving of a decision notice by the timeframes prescribed by the Code, until that act or thing has been performed: *ASIC v NAB* at [26]; *ASIC v ANZ (Retail Omnibus)* at [63].

55 I accept, as ASIC submits, that Westpac’s continuing failure to give a decision notice under s 72(4) within the prescribed timeframe was the “conduct constituting the contravention”. For the 54 affected customers in question, that conduct occurred each day wholly on or after 13 March 2019 until Westpac issued the affected customer a decision notice: Credit Act s 175A(2); *Statewide Superannuation* at [88]–[89]; *Noumi* at [49]–[50], [69]. As ASIC submits, it does not matter if the customer submitted a hardship notice prior to 13 March 2019, or if Westpac failed to give a decision notice prior to 13 March 2019; the contravening conduct is the continuing failure to give a decision notice. It also does not matter that the initial contravention of s 72(4) of the Code occurred prior to 4 September 2017, provided that Westpac continued to contravene its obligation to give a decision notice on and after 13 March 2019. It is not open to Westpac to avoid liability for its failure to provide written decision notices under s 72(4) of the Code simply and only because the obligation to do so *first* arose prior to 13 March 2019.

56 It is on this basis that the total number of online hardship notices and total affected customers the subject of declaration one will be 223 and 277, respectively. It is appropriate also that the period referred to is the Relevant Period, that is 2 October 2015 to 7 June 2023.

57 Nevertheless, even if I am not correct in the above analysis, and Westpac’s position as to the effect of 175A of the Credit Act is to be preferred, the number of affected customers in the

declaration (an additional 54, out of 277) does not materially affect my determination of the appropriate penalty to be imposed. The parties appear to accept that this is so.

58 With this in mind I note that Westpac makes a number of further detailed submissions on the subject of whether s 72(4) of the Code was a continuing contravention prior to the enactment of s 175A of the Credit Act. I accept ASIC's submission, however, that it is unnecessary to engage with those submissions or to determine that question in circumstances where I have accepted ASIC's position as to the effect of s 175A of the Credit Act. This is particularly so in circumstances where, even if my analysis as to s 175A of the Credit Act were to be regarded as incorrect, and Westpac's submissions with respect to the contraventions not being "continuing" were to be accepted, that would have no material impact on the appropriate pecuniary penalty I have decided to impose.

Westpac's contraventions of s 47 of the Credit Act

59 ASIC alleges that Westpac has contravened s 47 of the Credit Act during the Agreed Contravention Period. Westpac admits that this is so.

60 Section 47(1)(a) of the Credit Act is in the following terms:

General conduct obligations of licensees

General conduct obligations

- (1) A licensee must:
- (a) do all things necessary to ensure that the credit activities authorised by the licence are engaged in efficiently, honestly and fairly; and

61 Section 47 of the Credit Act is a civil penalty provision where the contravening conduct occurred wholly on or after 13 March 2019: Transitional Provisions Act Sch 8, Pt 2, item 3.

62 ASIC draws attention to the principles applicable to determining contravention set out by Foster J in *Australian Securities and Investments Commission v Camelot Derivatives Pty Ltd* (in liq) [2012] FCA 414; 88 ACSR 206 at [69] (in the context of s 912A(1)(a) of the Corporations Act) as follows:

- (a) The words "*efficiently, honestly and fairly*" must be read as a compendious indication meaning a person who goes about their duties efficiently having regard to the dictates of honesty and fairness, honestly having regard to the dictates of efficiency and fairness, and fairly having regard to the dictates of efficiency and honesty.
- (b) The words "*efficiently, honestly and fairly*" connote a requirement of competence in providing advice and in complying with relevant statutory

obligations. They also connote an element not just of even handedness in dealing with clients but a less readily defined concept of sound ethical values and judgment in matters relevant to a client's affairs.

- (c) The word “*efficient*” refers to a person who performs his [or her] duties efficiently, meaning the person is adequate in performance, produces the desired effect, is capable, competent and adequate. Inefficiency may be established by demonstrating the performance of a licensee's functions falls short of the reasonable standard of performance that the public is entitled to expect.
- (d) It is not necessary to establish dishonesty in the criminal sense. The word “*honestly*” may comprehend conduct which is not criminal but which is morally wrong in the commercial sense.
- (e) The word “*honestly*” when used in conjunction with the word “*fairly*” tends to give the flavour of a person who not only is not dishonest, but also a person who is ethically sound.

(Citations omitted)

See also *Australian Securities and Investments Commission v Westpac Banking Corporation (No 2)* [2018] FCA 751; 266 FCR 147 at [2347]–[2348] (Beach J) (*ASIC v Westpac (No 2)*); *Australian Securities and Investments Commission v AGM Markets Pty Ltd (in liq) (No 3)* [2020] FCA 208; 275 FCR 57 at [505]–[510] (Beach J); *Story v National Companies and Securities Commission* (1988) 13 NSWLR 661 (Young J).

63 ASIC submits that the following additional principles are also relevant in the present case:

- (a) A contravention of the “efficiently, honestly and fairly” standard does not require a contravention or breach of a separately existing legal duty or obligation, whether statutory, fiduciary, common law or otherwise. The statutory standard itself is the source of the obligation: *ASIC v Westpac (No 2)* at [2350].
- (b) Breach of another provision may itself be sufficient to constitute a violation of general obligations: see, for example, *Australian Securities and Investments Commission v Westpac Banking Corporation (Omnibus)* [2022] FCA 515; 407 ALR 1 at [71]–[73] (Beach J) (*ASIC v Westpac (Omnibus)*).
- (c) The word “ensure” imports a forward-looking element into the obligation. It is necessary not only to act efficiently, honestly and fairly from day to day, but to take steps to guard against lapses from that standard by employees or representatives: *Australian Securities and Investments Commission v Commonwealth Bank of Australia* [2022] FCA 1422 at [146] (Downes J), citing *Australian Securities and Investments*

Commission v AMP Financial Planning Pty Ltd (No 2) [2020] FCA 69; 377 ALR 55 at [105] (Lee J) (*ASIC v AMP Financial Planning Pty Ltd (No 2)*).

- (d) The standard may be unintentionally breached. Contravention is generally a matter of objective analysis: *Australian Securities and Investments Commission v National Australia Bank Ltd* [2022] FCA 1324; 164 ACSR 358 at [352] (Derrington J); *Australian Securities and Investments Commission v Ferratum Australia Pty Limited (in liq)* [2023] FCA 1043; 169 ACSR 553 at [49] (Kennett J) (*ASIC v Ferratum*).
- (e) Some conduct is appropriate to assess through a public expectation lens: for example, fees charged for no service, or providing financial advice without consideration of the client’s best interests: *Australian Securities and Investments Commission v RI Advice Group Pty Ltd* [2022] FCA 496; 160 ACSR 204 at [49] (Rofe J), referring to *Australian Securities and Investments Commission v MLC Nominees Pty Ltd* [2020] FCA 1306; 147 ACSR 266 (Yates J) and *Australian Securities and Investments Commission v Westpac Securities Administration Ltd* [2019] FCAFC 187; 272 FCR 170 (Allsop CJ, Jagot and O’Byrne JJ).
- (f) Where the contravening conduct occurred prior to 1 March 2019 and continued after that date, that does not prevent a determination of a contravention in respect of conduct that occurred on or after 1 March 2019: *ASIC v AustralianSuper* at [164] (Hespe J) citing *ASIC v Westpac (Omnibus)* at [409]–[412] and *Australian Securities and Investments Commission v Macquarie Bank Limited* [2024] FCA 416 at [69] (Wigney J).
- (g) Dishonesty in the criminal sense is not required: *Australian Securities and Investments Commission v Lanterne Fund Services Pty Ltd* [2024] FCA 353 at [93] (McEvoy J).

64 ASIC submits that while the authorities to which reference has been made have largely considered the meaning of the phrase “efficiently, honestly and fairly” in the context of s 912A(1)(a) of the Corporations Act, the principles essayed in these cases are equally applicable to s 47(1)(a) of the Credit Act: see *Australian Securities and Investments Commission v Darranda Pty Ltd (Liability)* [2024] FCA 1015 at [240] (Hespe J) citing *Membo Finance (No 2)* at [37]. I accept that this is so.

65 ASIC alleges, and Westpac admits, that in the period from 13 March 2019 to 7 June 2023 Westpac failed to do all things necessary to ensure that the credit activities authorised by its

credit licence were engaged in efficiently, honestly and fairly, and that Westpac thereby contravened s 47(1)(a) and (4) of the Credit Act by failing to:

- (a) maintain adequate systems, controls and processes which ensured that:
 - (i) online hardship notices given by customers were received by the Customer Assist team; and
 - (ii) written decision notices were given to customers within the timeframes prescribed by s 72(4) and (5) of the Code; and
- (b) conduct adequate risk reviews, investigations, monitoring and analysis of its online hardship notice systems and processes to enable it to identify any issues with its systems or processes, or to otherwise ensure that its online hardship notice systems and processes enabled compliance with s 72(4) and (5) of the Code.

66 On the subject of whether Westpac's activities were engaged in efficiently, ASIC makes a number of submissions which it is unnecessary to describe in detail. In substance, however, ASIC contends that Westpac's online hardship systems, processes and operations were inefficient in eight respects which it says had a cumulative and compounding effect. Those eight matters may be summarised as follows:

- (a) First, ASIC submits that from 1 October 2015 to 6 June 2023, Westpac had a complex, multi-system environment with aging technology which created an unacceptable risk (of which Westpac was aware) that online hardship notices would not be received and processed, including timely requests for customer information, within the timeframes prescribed by s 72(4) and (5) of the Code.
- (b) Secondly, ASIC submits that Westpac had a heavy reliance on manual workarounds to its aging and complex IT systems which made its online hardship notices process vulnerable to human error and process deficiencies as evidenced by what has been termed Operational Failure A and Operational Failure C.
- (c) Thirdly, ASIC submits that the manual interim control that Westpac put in place to rectify System Failure A caused what has been termed Operational Failure B in that it resulted in a number of online hardship notices not being received until 15 days after they were originally submitted by the customer. This, ASIC submits, was inefficient having regard to the timeframes stipulated by s 72(5) of the Code and Westpac's financial hardship policies, which required Westpac to provide a written decision notice within 21 days of receiving the online hardship notice.

- (d) Fourthly, ASIC submits that prior to the identification of System Failure A in 2022 Westpac adopted a siloed approach to fixing the root cause of this failure, evidenced by several internal incident and service tickets raised in 2018, 2020 and 2021 in respect of missing hardship notices and a 2023 audit report.
- (e) Fifthly, ASIC submits that Westpac could have, but did not, undertake an end-to-end review of the processes from a systems and processes perspective prior to April 2023.
- (f) Sixthly, ASIC submits that Westpac's sustained underinvestment in what ASIC considers to be outdated and failing IT systems caused Westpac to remain technologically complex in comparison to its peers.
- (g) Seventhly, ASIC notes that Westpac admits that on at least 61 occasions it declined an affected customer's hardship notice on the basis that the customer had not provided sufficient information to assess their request, in circumstances where the customer's online hardship notice, as affected by the system failures and/or operational failures, had provided sufficient information. ASIC submits that five of these occasions relate to the admitted contraventions of s 72(4) of the Code.
- (h) Eighthly, ASIC submits that despite receiving 13 customer complaints between 13 March 2019 and 31 January 2022 (when System Failure A was formally identified) about ignored online hardship notices, including customers who complained twice, Westpac did not take any steps to determine whether there was a systemic issue. ASIC submits that this demonstrates that Westpac's risk management processes were inadequate and ineffective at this time.

67 Further, ASIC submits that Westpac's online hardship systems, processes and operations were unfair in two respects:

- (a) First, ASIC contends that Westpac's online hardship systems, processes and operations impacted a class of customers experiencing a personal or financial crisis of varying severity and there was also a level of randomness as to whether a customer's hardship application would be impacted by any of the system and operational failures.
- (b) Secondly, ASIC submits that because of the deficiencies in Westpac's online hardship systems, processes and operations, Westpac issued default letters, recorded a default on a customer's credit file, commenced enforcement proceedings and, or alternatively, referred a customer to third party debt collection despite those customers having previously applied for hardship relief.

68 ASIC submits that Westpac exacerbated affected customers' personal and financial stress, and exposed those customers to further financial harm. ASIC notes that Westpac received several customer complaints in relation to default letters and notices as early as July 2018. In respect of enforcement proceedings, ASIC submits that Westpac risked contravening, or did in fact contravene, s 89A of the Code, and did not comply with the terms of its financial hardship policies in force between 16 July 2015 to 28 February 2023.

69 Finally, as to the matter of whether Westpac's online hardship systems, processes and operations were honest, ASIC submits that Westpac was (or should have been) aware of the deficiencies in its systems, processes and operations, and its potential to affect customers experiencing financial hardship, and yet it persisted with those systems, processes and operations which exclusively impacted customers who were experiencing financial hardship. ASIC does not otherwise contend that Westpac's conduct displayed actual dishonesty.

70 For substantially the reasons that ASIC submits, I accept that Westpac's conduct fell well short of the reasonable standard of a credit licence holder which the public is entitled to expect, especially given Westpac's size and resources and the commitments it has made under the Banking Code of Practice. In particular, I accept that Westpac failed to ensure that its credit activities were engaged in efficiently, honestly and fairly because Westpac:

- (a) did not prioritise the funding and investment to upgrade and simplify its complex legacy IT systems until 2024, despite being on notice that online hardship notices were not being properly sent or received, including in circumstances where it had received multiple complaints on the subject; and
- (b) delayed undertaking an end-to-end review of the processes from a systems and processes perspective until April 2023, and in this way did not take sufficient steps to guard against the risk that it would not give a written decision in response to an online hardship notice within the statutory timeframe prescribed by s 72(5) of the Code, or at all.

71 I am satisfied also that, as Westpac accepts, Westpac has contravened s 47(1)(a) by failing to:

- (a) maintain adequate systems, controls and processes which ensured that online hardship notices given by customers were received by the Customer Assist team and written decision notices were given to customers within the timeframes prescribed by s 72(4)

and (5) of the Code and to ensure as far as practicable that the contravening conduct did not occur; and

- (b) conduct adequate risk reviews, investigations, monitoring and analysis of its online hardship notice systems and processes to enable it to identify any issues with its systems or processes, or otherwise to ensure that its online hardship notice systems and processes enabled compliance with s 72(4) and (5) of the Code.

DECLARATIONS

72 ASIC seeks declarations pursuant to s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**) and s 166(2) of the Credit Act in respect of Westpac's contravening conduct.

73 The court has a wide discretionary power to make declarations pursuant to s 21 of the FCA Act: *ASIC v Commonwealth Bank of Australia* at [152]; *Australian Securities and Investments Commission v Financial Circle* [2018] FCA 1644; 131 ACSR 484 at [155] (O'Callaghan J); *Australian Securities and Investments Commission v Mercer Financial Advice (Australia) Pty Ltd* [2023] FCA 1453 at [49] (McEvoy J) (**ASIC v Mercer**).

74 In *Forster v Jododex Australia Pty Ltd* [1972] HCA 61; 127 CLR 421, Gibbs J set out (at 437–438) the three requirements that should be satisfied before the discretion is exercised in favour of making a declaration as follows:

- (a) the question must be a real and not a hypothetical or theoretical one;
- (b) the applicant must have a real interest in raising it; and
- (c) there must be a proper contradictor.

75 The language of s 166(2) of the Credit Act is mandatory. It requires the court to make a declaration of contravention if it is satisfied that a person has contravened a civil penalty provision of the Credit Act: see *Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited* [2023] FCA 256 at [41]–[46] (O'Bryan J).

76 The parties largely agree as to form of the declarations. As has been explained, there is a dispute in respect of the total number of online hardship notices specified in the declaration of a contravention of s 72 of the Code, and therefore about the period within which it is to be specified that Westpac's contraventions of both s 72 of the Code and s 47 of the Credit Act occurred. For the reasons I have outlined, I accept ASIC's submission that there was a total of 277 affected notice customers between the period of 2 October 2015 and 7 June 2023.

77 I have determined that the contraventions that are the subject of the proposed declarations are established by the facts set out in the SOAF and the admissions made by Westpac. I am satisfied, therefore, that declarations of contravention must be made: s 166(2) of the Credit Act. I accept also that there is utility in making declarations in the form proposed by ASIC and substantially agreed by Westpac. Their terms identify the contravening conduct with specificity and record the court's disapproval of it. There will therefore be declarations substantially in the terms that ASIC proposes.

PECUNIARY PENALTY

Relevant principles

78 Sub-sections 167(1) and (2) of the Credit Act give the court power to order a pecuniary penalty in respect of a contravention of a civil penalty provision where a declaration of contravention pursuant to s 166 has been made.

79 The discretion to be applied in setting a pecuniary penalty must be guided by the relevant statutory provisions. Nevertheless, the legal principles that govern the assessment of the quantum of a pecuniary penalty that should be imposed for civil contraventions are well established. These principles may be summarised as follows.

80 First, the power to impose a penalty must be exercised judicially; that is, fairly and reasonably: *Australian Building and Construction Commissioner v Pattinson* [2022] HCA 13; 274 CLR 450 at [40] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ) (*Pattinson*).

81 Secondly, the primary or sole purpose of civil penalties is deterrence, both specific and general: *Pattinson* at [9]–[10], [15]–[18]; *Commonwealth of Australia v Director, Fair Work Building Industry Inspectorate* [2015] HCA 46; 258 CLR 482 at [55] (French CJ, Kiefel, Bell, Nettle and Gordon JJ) (*Agreed Penalties Case*), referring to *Trade Practices Commission v CSR Ltd* [1990] FCA 762; [1991] ATPR 41-076 at 52,152 (French J) (*CSR*). See also *Australian Securities and Investments Commission v Adler* [2002] NSWSC 483; 42 ACSR 80 at [125]–[126] (Santow J). As I observed in *ASIC v Mercer* at [64], specific deterrence is concerned with deterring repetition of the contravening conduct by the contravener and general deterrence is concerned with deterring others who might be tempted to engage in similar contraventions: see *Pattinson* at [9], [15], [42], [47]–[48]. Penalties will be imposed to promote the public interest in compliance, and should be no greater than necessary to achieve the objectives of deterrence: *Agreed Penalties Case* at [55], referring to *CSR* at 52,152; *Pattinson* at [10], [40]. It is trite to

observe that the object of pecuniary penalties does not include retribution, denunciation or rehabilitation: *Pattinson* at [15]–[16].

82 Thirdly, while the civil penalty should not be so high that it is oppressive, it should not be so low as to be regarded by the contravener as “an acceptable cost of doing business”: *ASIC v Mercer* at [65], citing *Pattinson* at [17], [40]–[41]; *Australian Building and Construction Commission v Construction, Forestry, Mining and Energy Union* [2018] HCA 3; 262 CLR 157 at [116] (Keane, Nettle and Gordon JJ); *Australian Competition and Consumer Commission v TPG Internet Pty Ltd* [2013] HCA 54; 250 CLR 640 at [66] (French CJ, Crennan, Bell and Keane JJ); *Singtel Optus Pty Ltd v Australian Competition and Consumer Commission* [2012] FCAFC 20; 287 ALR 249 at [62]–[63] (Keane CJ, Finn and Gilmour JJ) (*Singtel Optus*); *NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission* [1996] FCA 1134; 71 FCR 285 at 293 (Burchett and Kiefel JJ) (*NW Frozen Foods*); *Australian Securities and Investments Commission v Westpac Banking Corporation* [2019] FCA 2147 at [255] (Wigney J) (*ASIC v Westpac Banking*). The penalty must be “proportionate” and “appropriate” in the sense that it strikes a reasonable balance between oppressive severity and deterrence in the circumstances of the case: *Pattinson* at [40]–[41], [46].

83 Fourthly, the court should have regard to the prescribed maximum penalty, however it should not simply start with the maximum penalty and proceed by making proportional deductions from that amount: *Markarian v The Queen* [2005] HCA 25; 228 CLR 357 at [31] (Gleeson CJ, Gummow, Hayne and Callinan JJ). The maximum penalty, while important, is “but one yardstick” to be applied: *Australian Securities and Investments Commission v AMP Financial Planning Proprietary Limited* [2022] FCA 1115; 164 ACSR 64 at [107] (Moshinsky J) (*ASIC v AMP*); *Australian Competition and Consumer Commission v Reckitt Benckiser (Australia) Pty Ltd* [2016] FCAFC 181; 340 ALR 25 at [155]–[156] (Jagot, Yates and Bromwich JJ) (*Reckitt*). As the plurality emphasised in *Pattinson* at [49], the maximum penalty is not reserved for the “worst” category of contravening conduct. Rather, what is required is that there be “some reasonable relationship between the theoretical maximum and the final penalty imposed”: *Pattinson* at [10], citing *Reckitt* at [156]. This relationship will be established where the penalty does not exceed what is reasonably necessary to deter future contraventions of a like kind by the contravenor, and by others: *Pattinson* at [10]; *ASIC v Mercer* at [68].

84 Fifthly, s 167(3) of the Credit Act requires that, in determining the pecuniary penalty, the court must take into account all relevant matters, including:

- (a) the nature and extent of the contravention; and
- (b) the nature and extent of any loss or damage suffered because of the contravention; and
- (c) the circumstances in which the contravention took place; and
- (d) whether the person has previously been found by a court (including a court in a foreign country) to have engaged in similar conduct.

85 Sixthly, additional factors may be taken into account as relevant considerations, keeping in mind the objective of the pecuniary penalty provisions. In *Australian Securities and Investments Commission v Westpac Banking Corporation (No 3)* [2018] FCA 1701; 131 ACSR 585 at [49] (*ASIC v Westpac (No 3)*), Beach J formulated the factors to be taken into account in the following terms:

- (a) the extent to which the contravention was the result of deliberate or reckless conduct by the corporation, as opposed to negligence or carelessness;
- (b) the number of contraventions, the length of the period over which the contraventions occurred, and whether the contraventions comprised isolated conduct or were systematic;
- (c) the seniority of the officers responsible for the contravention;
- (d) the capacity of the defendant to pay, but only in the sense that whilst the size of a corporation does not of itself justify a higher penalty than might otherwise be imposed, it may be relevant in determining the size of the pecuniary penalty that would operate as an effective specific deterrent;
- (e) the existence within the corporation of compliance systems, including provisions for and evidence of education and internal enforcement of such systems;
- (f) remedial and disciplinary steps taken after the contravention and directed to putting in place a compliance system or improving existing systems and disciplining officers responsible for the contravention;
- (g) whether the directors of the corporation were aware of the relevant facts and, if not, what processes were in place at the time or put in place after the contravention to ensure their awareness of such facts in the future;
- (h) any change in the composition of the board or senior managers since the contravention;
- (i) the degree of the corporation's co-operation with the regulator, including any admission of an actual or attempted contravention;

- (j) the impact or consequences of the contravention on the market or innocent third parties;
- (k) the extent of any profit or benefit derived as a result of the contravention; and
- (l) whether the corporation has been found to have engaged in similar conduct in the past.

86 These factors are not to be applied as a “rigid checklist”. As ASIC submits, the court should weigh all relevant matters before it to fix an appropriate penalty with regard to the circumstances in which the contraventions have occurred: *Pattinson* at [19]; *Australian Ophthalmic Supplies Pty Ltd v McAlary-Smith* [2008] FCAFC 8; 165 FCR 560 at [91] (Buchanan J).

87 Seventhly, the criminal law principles of course of conduct, parity and totality will inform the court’s determination of a penalty: *Pattinson* at [45]; *ASIC v Mercer* at [69]–[70], [80].

88 The course of conduct principle requires the court to consider whether multiple contravening acts arise out of the same course of conduct or the one transaction in determining whether it is appropriate that a “concurrent” or “single penalty” should be imposed for the contraventions: *Australian Securities and Investments Commission v Westpac Securities Administration Limited* [2021] FCA 1008; 156 ACSR 614 at [25] (O’Byrne J) (*ASIC v Westpac Securities*), citing *Australian Competition and Consumer Commission v Yazaki Corporation* [2018] FCAFC 73; 262 FCR 243 at [234] (Allsop CJ, Middleton and Robertson JJ) (*ACCC v Yazaki*).

89 In applying the parity principle, while predictability of outcomes (for comparable contraventions) is capable of assisting in the assessment of general deterrence, it can be conceptually problematic to calibrate an appropriate penalty by looking at penalties in other cases: *ASIC v Commonwealth Bank of Australia* at [77].

90 The totality principle operates as a final consideration of the total aggregate penalty to be imposed on a wrongdoer to ensure that it is just and proportionate to the conduct, having regard to the circumstances of the case: *Chief Executive Officer of the Australian Transaction Reports and Analysis Centre v Westpac Banking Corporation* [2020] FCA 1538; 148 ACSR 247 at [69] (Beach J) (*AUSTRAC v Westpac*) citing *Australian Competition and Consumer Commission v Australian Safeway Stores Pty Ltd* [1997] FCA 450; 145 ALR 36 at [53] (Goldberg J).

Maximum penalty

91 In considering the quantum of the pecuniary penalty to be imposed on Westpac, I have had regard to the maximum penalty prescribed by the legislation.

92 The Strengthening Penalties Act introduced the following amendments relevant to determining the maximum penalty (from 13 March 2019):

- (a) the maximum number of penalty units for a contravention of s 72(4) of the Code increased from 2,000 penalty units to 5,000 penalty units;
- (b) s 47(1)(a) of the Credit Act became a civil penalty provision with a penalty of 5,000 penalty units;
- (c) s 175A of the Credit Act was introduced; and
- (d) the maximum pecuniary penalty for a body corporate became the greatest of the penalty specified for the civil penalty provision, multiplied by 10, or the alternative calculations specified in s 167B(2) of the Credit Act.

93 The parties agree that the value of a penalty unit fixed by s 4AA of the *Crimes Act 1914* (Cth) during the Agreed Contravention Period was:

- (a) \$210 between 1 July 2017 and 30 June 2020;
- (b) \$222 between 1 July 2020 to 31 December 2022;
- (c) \$275 between 1 January 2023 and 30 June 2023.

94 Without setting out the detailed calculations, ASIC submits that the total theoretical maximum penalty for Westpac's contraventions of s 72(4) of the Code is \$3,299 trillion, and for the contraventions of s 47 of the Credit Act it is between \$21 million and \$27.5 million. Westpac substantially accepts that the maximum penalties are in the order of such large amounts, disputing them only to the extent that the total number of s 72 contraventions is disputed.

95 I accept that taking into account the theoretical maximum penalty enables a proper consideration of the egregiousness of the contravening conduct: *Australian Securities and Investments Commission v AGM Markets Pty Ltd (In Liq) (No 4)* [2020] FCA 1499; 148 ACSR 511 at [38]–[40] (Beach J) (*ASIC v AGM (No 4)*); *Australian Competition and Consumer Commission v Get Qualified Australia Pty Ltd (in liq) (No 3)* [2017] FCA 1018 at [32] (Beach J). However, it is well recognised that where the theoretical maximum penalty is in the realm of billions or trillions of dollars, as is the case here, it offers no meaningful guide to the assessment of the appropriate penalty range. In the circumstances, this is best assessed by reference to other factors: see *Reckitt* at [157]–[158]; *Australian Securities and Investments Commission v LGSS Pty Ltd (No 3)* [2025] FCA 205; 173 ACSR 641 at [86] (O'Callaghan J).

The appropriate pecuniary penalty

96 As has been mentioned, ASIC’s proposed pecuniary penalty of \$30 million is comprised of \$20 million for Westpac’s contraventions of s 72(4) of the Code, and \$10 million for Westpac’s contraventions of s 47 of the Credit Act. As has also been mentioned, on Westpac’s rather more tolerant view of what has occurred, a pecuniary penalty of \$10 million is more appropriate.

97 It is well accepted that the process of having regard to the various relevant factors in deriving a penalty figure is one of intuitive synthesis: *Australian Competition and Consumer Commission v Murray Goulburn Co-Operative Co Ltd* [2018] FCA 1964 at [36] (Beach J); *ASIC v AGM (No 4)* at [47] (Beach J); *ASIC v Mercer* at [127]. The process requires a consideration of all factors taken together by reference to the civil penalty provisions contravened, in their statutory context. What follows should be understood in this context.

The nature and extent of the contraventions

98 In this case, the Relevant Period is relatively lengthy. Even in circumstances where Westpac agrees to having engaged in the relevant conduct during the Agreed Contravention Period, that conduct was extensive, enduring and serious.

99 The contravening conduct persisted for a long period, including throughout the COVID-19 pandemic when there was a heightened, and one might say critical, need for financial assistance for many of Westpac’s customers. In this regard ASIC draws the court’s attention to the fact that further system errors disclosing continued failures to comply with s 72 of the Code were reported in November 2024, almost three years after the issues that are the subject of this proceeding were first identified.

100 Westpac accepts that its conduct was serious. It submits, however, that the number of customers impacted by the contravening conduct was “extremely small” when compared to the total number of online hardship notices that were received by Westpac in the Agreed Contravention Period. By reference to the Stewart Affidavit, Westpac highlights that between 2 October 2015 and 31 May 2023 (encompassing almost the entirety of the Relevant Period) it received approximately 88,975 online hardship notices, but only contravened s 72(4) of the Code with respect to 223, or at a maximum 277, affected customers.

101 While I accept that the number of affected online hardship notices is proportionately small, I do not accept that this substantially mitigates against the seriousness of Westpac’s conduct. The harm caused to the customers who were affected was significant. Further, as ASIC points

out and Westpac accepts, there were in fact at least 1,013 online hardship notices affected when the broader period commencing in 2015 is considered. In any event, the fact that the proportion of online hardship notices affected is relatively small is at least to some extent attributable to chance. It is not because of any positive act of Westpac. As Westpac itself acknowledges, the errors in question were “random”. Given the nature of the conduct, the systems failures involved, and the fact that Westpac had received complaints but failed to investigate the issues with the system, the number of affected customers could well have been higher.

102 It is also relevant to note, as ASIC submits and as is apparent from the evidence, that Westpac’s contravening conduct was only discovered when a customer called Westpac to enquire as to the status of their online hardship notice, which triggered an investigation. Westpac does not dispute that this is so. ASIC submits and I accept that but for these circumstances, the contravening conduct may well have continued.

103 In these circumstances I accept that Westpac’s conduct was both very serious and extensive. The contraventions, by definition, exclusively impacted vulnerable customers of Westpac who were experiencing personal or financial hardship. They deprived hundreds of those customers from having their hardship applications considered in a timely manner, and in a way which may have varied the terms of their credit and repayment obligations. In some cases, these vulnerable customers were not only deprived of possible assistance, but were the subject of unjustified and premature enforcement action. The resulting harm is self-evident and highly significant. While it will be necessary to return to the harm that was caused to particular customers, it is important to note here, as ASIC submits and Westpac acknowledges, that some of the harm caused to vulnerable customers was irreparable.

The circumstances of the contraventions

104 I accept, at one level, that the contraventions were brought about by systems and operational failures which did not directly involve the senior management of Westpac, and of which they were not aware until February 2022. I accept also, at one level, that the contravening conduct was not deliberate on the part of Westpac. In this regard I accept Westpac’s submission that the contraventions may therefore be distinguished from those involving conduct that occurred at the level of senior management. As ASIC submits, however, there are a number of other circumstances which must be noted and which bear upon the penalty that is to be imposed.

105 While ASIC did not suggest that Westpac’s conduct was intentional, senior counsel for ASIC characterised Westpac’s delay in investigating the system and process failures, as well as its

under-resourcing at a technology level, as “grossly negligent”. In particular, ASIC submits that there were serious deficiencies in Westpac’s complaints handling and risk management systems. As has been mentioned, there were numerous complaints made by Westpac’s customers regarding the lack of decision notice being given in response to their online hardship applications and numerous incident reports had been lodged without any adequate investigation by Westpac into the cause of the issues, or whether it was systemic. The contraventions continued in these circumstances.

106 As outlined in Part F of the SOAF, the evidence is that a number of Westpac’s employees were aware of issues relating to the online hardship systems from at least December 2018, including that many online hardship notices were not being received by the Customer Assist team. That is, three years prior to the identification and investigation of these very issues in January 2022. While I accept Westpac’s submission that once System Failure A was formally identified in January 2022 it conducted a prompt investigation, this does not excuse the length of time it took Westpac to identify the Systems and Operational Failures in the first place. The same can be said of Westpac’s submission that the Systems and Operational Failures were difficult to detect.

107 In these circumstances, while I accept that Westpac’s conduct was not intentional in the sense that it set out deliberately to engage in the contravening conduct or was reckless, I accept ASIC’s submission that Westpac’s conduct was grossly negligent. The agreed facts and the evidence demonstrate that it was, or ought to have been, clear to Westpac that the systems and processes employed by it in relation to online hardship notices were not fit for purpose. This is especially so in circumstances where Westpac had received customer complaints and incident reports had been raised. At any time from the commencement of the relevant systems failures in October 2015 until January 2022, Westpac could have and should have conducted a thorough investigation of its systems and processes to satisfy itself that each and every hardship application was being received in the way intended. Westpac did not do this. The fact that senior management was not aware of the problem until after System Failure A was escalated is wholly unsatisfactory.

108 To the extent that Westpac draws attention to the relatively small number of complaints it received with respect to online hardship notices during the Agreed Contravention Period when compared with the much larger total number of complaints it would receive in a single year, I do not accept that this assists Westpac in any substantial way. As ASIC submits, 16 customer

complaints is not an insignificant number: see *ASIC v AMP* at [55], [57], [130]. These 16 complaints came from real people who must have considered that they were experiencing real hardship. But in any event, given Westpac's size and resources, Westpac should have been able to identify and investigate the broader Systems and Operational Failures much earlier than it did. The fact that Westpac did not do this reflects a serious management deficiency.

109 In its written submissions ASIC initially asked the court to infer that Westpac had unintentionally profited from the contravening conduct by reason of any interest (including default interest) that had accrued on affected customers' accounts. In response, Westpac submitted that this was not the case and that any such interest (including default interest), fees, and the time value of that money was refunded to affected customers as part of its remediation program. Paragraph [120(b)] of the SOAF states that as at 13 December 2023 Westpac had paid \$1,439,526.11 to impacted customers for refunds of fees, interest and time value of money, in addition to \$295,600.70 paid in remediation for additional non-financial loss. Having regard to Westpac's response, ASIC withdrew its submission that Westpac had profited from the contraventions.

110 At the hearing, senior counsel for ASIC appeared to accept that the fact that Westpac cannot be said to have profited from the contraventions must result in at least some minor deduction in the penalty amount to be paid by Westpac in circumstances where the \$30 million penalty that ASIC sought was based in part based on the notion that it had. However, somewhat counter-intuitively, he also submitted that it remains open to the court to find that a \$30 million penalty amount is nonetheless appropriate having regard to the other factors to be considered as part of the exercise of intuitive synthesis.

111 I accept that the extent of any profit or benefit derived as a result of the contraventions, or the lack of any such profit or benefit as demonstrated by Westpac, remains one of several relevant considerations to be taken into account in the assessment of pecuniary penalty. In circumstances where ASIC's figure of \$30 million was apparently based in part on an assumption that Westpac had profited from the contravening conduct, it must follow that absent that assumption a lesser penalty figure would be more appropriate. However, it remains the case that any reduction in penalty is to be considered in light of all of the circumstances and the factors to be considered with respect to the contraventions, and as part of the consideration of the total penalty amount to be imposed having regard to these matters.

The size and resources of Westpac and the industry in which it operates

112 ASIC submits that Westpac’s size and resources, as well as the industry in which it operates, are important factors when considering an appropriate pecuniary penalty in this proceeding. Westpac accepts this.

113 Westpac is a publicly listed company and one of Australia’s four major banks. It is accepted that Westpac’s revenue and net profit after tax throughout the Agreed Contravention Period was as follows:

Financial Year	Revenue (\$m)	Net profit after tax (\$m)
2017	21,802	7,990
2018	22,133	8,095
2019	20,649	6,784
2020	20,183	2,290
2021	21,222	5,458
2022	19,606	5,694
2023	21,645	7,195

114 Further, having regard the evidence of Westpac’s reported financial results, ASIC submits that a total penalty of \$30 million would represent only 0.4% of Westpac’s net income for the 2023-2024 financial year.

115 Westpac maintains that a penalty in the amount of \$10 million is still a substantial penalty, is unlikely to be seen as an “acceptable cost of doing business”, and is capable of deterring others from engaging in similar contravening conduct. It refers in this regard to *Australian Competition and Consumer Commission v Optus Mobile Pty Limited* [2019] FCA 106 at [82] (Murphy J), although of course that penalty was imposed in a different context.

116 Obviously the contravenor’s size and financial resources do not alone justify a higher penalty than might otherwise be imposed: see *Australian Competition and Consumer Commission v*

Coles Supermarkets Australia Pty Ltd [2015] FCA 330; 327 ALR 540 at [92] (Allsop CJ); *ASIC v Mercer* at [74]. However, it is well accepted that the size and financial resources of a contravenor may be particularly relevant in determining the size of the pecuniary penalty that would operate as an effective deterrent: *ASIC v Westpac Banking* at [260]. As Goldberg J observed in *Australian Competition and Consumer Commission v Leahy Petroleum Pty Ltd (No 3)* [2005] FCA 265; 215 ALR 301 at [39], the sum required to achieve deterrence will be larger where the court is setting a penalty for a company with vast resources.

117 I accept that Westpac's size and significant financial resources are highly relevant factors in this case, and that it is necessary that the penalty imposed be substantial enough to achieve effective specific deterrence having regard to these factors.

118 I also accept that the industry in which Westpac operates is a relevant factor when considering the matter of deterrence and determining a pecuniary penalty amount. As ASIC submits, Westpac has acknowledged that by its conduct it also failed to meet its obligations under cl 164 and that has it breached, or is likely to have breached, cll 164 and 177 of the Banking Code of Practice. Breach of the Banking Code of Practice is something that should be taken seriously by the court: *Australian Securities and Investments Commission v Australia and New Zealand Banking Group Ltd (No 3)* [2020] FCA 1421 at [13] (Allsop CJ) (*ASIC v ANZ (No 3)*); *Australian Securities and Investments Commission v Commonwealth Bank of Australia* [2021] FCA 423 at [33] (Lee J) (*ASIC v CBA*).

119 In *ASIC v ANZ (No 3)*, Allsop CJ made the following observation in the context of the banking industry (at [74]) which are apposite here:

The deterrent nature of the penal response is the central, if not the sole, purpose of an object of the penalty. A number of matters need to be stated about that here. The banking industry is large and involves consumer choices. There should be, and is, by the agreed penalty, a strong deterrent as to conduct which risks the rights of consumers and customers, by reference to any approach which risks their interests against the interests of the Bank. The considerations of the contract of adhesion and its administration, to which I have referred, are central in this regard. Put in economic terms, the market efficiency upon which consumer confidence rests, relies on reliability, good faith, fairness and honesty of conduct. It should be made clear to all businesses – here, banks, but all businesses – that the consumer should be dealt with in a way that accords with the Australian business conscience for which Parliament has legislated, and here, banks should be, as the submissions make clear, left in no doubt of the need for proper and strong compliance programs, sufficient to detect and address conduct of the present kind.

120 As I observed in *ASIC v Mercer* (at [149]), the obligations of reliability, good faith, fairness and honesty of conduct, which Allsop CJ identified in *ASIC v ANZ (No 3)*, are of fundamental

importance, and they underpin the functioning of the Australian economy. It is important not to lose sight of them.

Harm

121 Returning to the harm that has been caused by Westpac’s contraventions, it cannot be emphasised too highly that the persons affected by the relevant conduct were a vulnerable group of customers experiencing financial hardship. Westpac accepts this. ASIC submits, and it is not seriously contested, that the spectrum of customers impacted in this case included:

- (a) customers experiencing extreme cases of hardship such as family violence, natural disasters, homelessness, death of a family member, long-term unemployment, mental illness, or serious illness like cancer, major surgery and even being comatose (including carer responsibilities of dependents experiencing those conditions);
- (b) customers who were unemployed but expected to regain employment, customers who were recently divorced or separated with an anticipated settlement, or customers who were temporarily financially overcommitted; and
- (c) customers requesting a short-term moratorium on their repayments, or financial hardship due to a lack of rental income from their investment property.

122 As has been mentioned, in some cases vulnerable customers were not only deprived of possible assistance, but were the subject of unjustified and premature enforcement action. The resulting harm to these customers is self-evident and highly significant.

123 Westpac admits that 10 of the affected notice customers became bankrupt or entered a debt agreement (within the meaning of Pt IX of the *Bankruptcy Act 1966* (Cth)) after submitting their online hardship notice. Westpac has also identified that 21 of the affected customers were experiencing “extreme vulnerability” at the time they lodged an online hardship notice. As ASIC submits, in this sense Westpac’s conduct placed these customers experiencing extreme financial hardship at risk of significant financial harm.

124 Westpac admits that with respect to at least 22 affected customers, it recorded adverse repayment information on their credit files, and with respect to an unknown number of customers it recorded default information on their files. Such adverse credit ratings being reported would have necessarily, at least for a time, impacted the ability of an affected customer to obtain credit on favourable terms, or at all: see *ASIC v Westpac (Omnibus)* at [385].

125 Further, on at least 21 occasions Westpac sold an affected customer's account to a third-party debt purchaser. ASIC submits, and I accept, that this is significant in the court's consideration of Westpac's contraventions. I accept that the affected customers would likely have faced contact from debt collectors at a time when they were already experiencing financial hardship, and *after* they had requested that Westpac agree to make changes to their credit contract due to such hardship. This would undoubtedly have exacerbated affected customers' financial and personal stress, and it occurred despite Westpac's obligations under s 89A of the Code not to commence enforcement action in respect of these customers and Westpac's commitment pursuant to cl 184 of the Banking Code of Practice not to refer such customers to third-party debt purchasers when actively considering their financial situation.

126 ASIC submits, and I accept, that a result of Westpac's conduct affected customers were denied the opportunity to have their hardship notices determined at a time when they were most vulnerable and when they were most at risk of experiencing further financial hardship. In this sense customers were deprived of possible assistance that they were entitled to seek. I also accept that as a result of Westpac's conduct each affected customer is likely to have experienced stress, inconvenience and the risk of further financial harm, including accrued interest, fees and charges, and the accumulation of additional debt. These are matters of enormous significance, and they should not be considered only in the abstract. I am prepared to accept that in many cases they will have been irreparable and life changing.

127 Westpac maintains that its remediation for financial and non-financial loss significantly reduces the impact on, and harm suffered by, the affected customers, and that this is a matter which warrants a significant reduction in the penalty that might otherwise have been thought to be necessary to achieve specific deterrence. Westpac's remediation is set out in [117] to [120] of the SOAF. Westpac submits also that while it appreciates that its conduct "could" undermine the purpose of the legislative scheme with respect to hardship notices, the court should not accept that all affected customers have suffered material loss or damage.

128 Although I accept that Westpac has remediated affected customers fully, at least to the extent that this has been possible, I do not accept that this significantly alters the court's consideration of the harm that has undoubtedly been caused by Westpac's conduct. This is especially so in circumstances where, as is recorded at paragraph [121] of the SOAF, there is also tangible loss that has not been, or cannot be, financially remediated by Westpac. This includes circumstances where it is not possible to remove default listings that have already been expunged by law or

listings on the National Personal Insolvency Index with retrospective effect. This is highly significant in the proper consideration of an appropriate penalty amount.

129 To the extent that Westpac submits that it is relevant that customers may have received some other form of hardship payment or assistance from the bank, including by reference to additional policies and procedures that Westpac put in place due to the COVID-19 pandemic alongside existing hardship policies and procedures, I do not accept that this has the significance that Westpac contends. As ASIC submits, there is no evidence that any customers the subject of the declarations to be made in this proceeding received any such assistance. Further, Westpac accepts that some customers became bankrupt or entered a debt agreement, that adverse information was entered on to customers' credit files, and that all affected customers were remediated. It would have been open to Westpac to lead evidence that customers in fact received other forms of hardship payment or assistance.

130 Ultimately, I do not accept that Westpac's remediation payments warrant a significant reduction in the penalty to be imposed. Nor do I accept that the possibility that some of the relevant customers may have received other assistance sounds in Westpac's favour. Westpac's submission that harm was not suffered by customers in the way ASIC alleges cannot be maintained.

Past contraventions

131 ASIC submits that Westpac's past contravening conduct is an important consideration for the court in determining a pecuniary penalty for the purposes of deterrence in this matter. As O'Bryan J observed in *ASIC v Westpac Securities* (at [86]), a history of non-compliance with similar legal obligations across a corporate group may justify the imposition of a higher penalty for the purpose of achieving deterrence. Whether a contravenor can be said to have engaged in similar conduct in the past is something that must involve a relatively broad and impressionistic inquiry: see generally *ASIC v ANZ (Retail Omnibus)* at [86].

132 Westpac emphasises that it has not previously been found by a court to have contravened civil penalty provisions under s 72(4) of the Code, s 47(1)(a) of the Credit Act, or the Credit Act or Code more broadly. Westpac does accept, however, that it has been found to have contravened civil penalty provisions of the Corporations Act, including s 912A(1), and the ASIC Act, with respect to the state of its systems and processes to ensure compliance with the law. Nonetheless, Westpac submits that these contraventions were a result of historical or legacy technology systems and processes, and that they occurred at times largely overlapping with this

proceeding. Westpac submits that they are therefore of limited relevance in determining penalty in the present context.

133 However, ASIC draws attention to the fact that this proceeding is the *sixth* occasion in recent years where Westpac and its subsidiaries have failed to ensure that their provision of financial services has been engaged in efficiently, honestly and fairly: see *ASIC v Westpac (Omnibus)* at [161], [270], [470], [513]–[517]; *Australian Securities and Investments Commission v Westpac Banking Corporation (Penalty Hearing)* [2024] FCA 52 at [21] (Lee J).

134 It is also the case, ASIC submits, that Westpac’s conduct which was the subject of the relevant recent proceedings had a degree of similarity to the present proceeding. Each of the *ASIC v Westpac (Omnibus)* proceedings concerned contraventions caused by deficient systems and failures with respect to financial products affecting retail customers. Four of those proceedings had lengthy contravention periods, comparable to the Agreed Contravention Period and the Relevant Period. In these proceedings Beach J found that Westpac had not provided sufficient funding or resources to implement satisfactory systems and processes, and that the relevant contraventions had occurred due to system and processing errors and inadequacies including inadequate risk management frameworks, deficient and inadequate systems and system and process “failures” and “errors”: see at [165], [186], [271], [324], [391], [450]–[453], [536].

135 Also relevantly, in one of the proceedings the subject of *ASIC v Westpac (Omnibus)*, Westpac was found to have sold the debt of impacted credit customers to third party debt purchasers. Recovery action was also taken against impacted customers, adverse credit ratings were filed, and some customers became bankrupt. Justice Beach observed (at [386]–[387]):

Undoubtedly, the customers impacted by Westpac’s conduct were likely to be customers who could least afford to be overcharged with interest and who faced financial hardship.

Clearly, the extent and consequences of Westpac’s contraventions were serious to say the least.

136 Further, in *AUSTRAC v Westpac*, Beach J held (at [170]) that “the AML/CTF compliance and risk management functions were not adequately resourced” and “there were weaknesses in Westpac’s data management and technology systems in relation to AML/CTF compliance.” An agreed penalty of \$1.3 billion was imposed for those contraventions. Also, in *Australian Securities and Investments Commission v BT Funds Management Ltd* [2021] FCA 844, Wheelahan J found (at [10]) that the contravening conduct by two wholly owned subsidiaries

of Westpac was “attributed to two system errors and inadequate review and control mechanisms”.

137 While not systems error cases, ASIC also draws attention to Westpac having been found to have contravened the Corporations Act and the ASIC Act with respect to the sale of consumer credit insurance, the provision of personal advice in breach of its financial services license, and due to having engaged in unconscionable conduct with respect to the marketing of certain financial products: *Australian Securities and Investments Commission v Westpac Banking Corporation (The Consumer Credit Insurance Case)* [2022] FCA 359; 158 ACSR 647 (Katzmann J); *ASIC v Westpac Securities*; *ASIC v Westpac (No 3)*.

138 Westpac submits that these prior contraventions are of limited relevance to the penalty to be ordered in the present circumstances, but I do not accept this submission. As ASIC submits, Westpac having been found to have contravened civil penalty provisions on these occasions demonstrates that it has consistently had in place inadequate systems and processes to meet its financial services obligations under various statutes as well as risk management systems to identify and correct such systemic issues. Westpac’s persistent failure to invest adequately in appropriate technology systems and platforms has exacerbated these inadequacies. This is highlighted both by previous cases involving Westpac, and by Westpac’s ongoing systems failures which are the subject of the present proceeding, including some which were reported as late as November 2024. Notwithstanding the fact that Westpac has more recently reformed its systems and invested in its technology infrastructure, Westpac’s prior conduct is both relevant and significant in my determination of the appropriate penalty to be ordered, particularly to address the objectives of specific and general deterrence.

Culture of compliance

139 Westpac submits that it has a culture of compliance, and that this is relevant to the court’s consideration of penalty. It submits, in particular, that it has a “culture of continuous improvement and a focus on compliance” having regard to four matters. First, Westpac submits that the evidence demonstrates that during the Relevant Period it had in place a “three lines of defence model”, and also risk management procedures to mitigate risk and manage compliance throughout the bank.

140 Secondly, Westpac submits that it had in place policies, processes, procedures and controls relating to financial hardship directed at both the process of transferring the online hardship notices through the online hardship process and responding to hardship notices within the

prescribed timeframes, and the appropriate handling of the customers' hardship notices by the Customer Assist team.

141 Thirdly, Westpac submits that it is relevant that in June 2024 ASIC provided Westpac with feedback from ASIC's review of the approach of lenders to supporting customers experiencing financial hardship which noted "overall Westpac compared favourably to most other lenders who were subject of our review".

142 Fourthly, Westpac notes that it has now decommissioned the systems that caused the Systems and Operational Failures.

143 I do not accept that these submissions as to Westpac's culture of compliance bear substantially on the question of penalty. As ASIC submits, the existence or otherwise of a compliance culture is evidenced by a corporation's actions, including through the identification and investigation of widespread or systemic issues. As Moshinsky J observed in *ASIC v AMP* (at [136]):

In relation to "corporate culture", I consider that the failure to investigate whether or not there was a systemic issue, despite many complaints, over a lengthy period of time, reflects very poorly on the defendants (in particular, AMP Life). It is surprising and concerning that repeated complaints that the PSF had been wrongly debited from the superannuation accounts of members who had ceased employment with their employer-sponsor did not lead anyone within the defendants (in particular, within AMP Life) to question whether there was a systemic issue. While it is not suggested that senior management were involved in the contraventions, in my opinion it reflects very poorly on the organisational culture that this type of questioning did not occur.

144 ASIC is correct to submit that here Westpac has admitted that it has failed adequately to identify and investigate the issues that occurred even after it had received multiple complaints on the subject. Whatever models and procedures Westpac did employ during the Relevant Period were obviously ineffective. Further, whatever be the case about whether the contraventions the subject of this proceeding were accounted for by ASIC when it gave feedback to Westpac in 2024, that feedback relates to conduct which is not the subject of this proceeding. In any event, comparison of compliance between Westpac and other lenders is of little consequence for present purposes.

Co-operation and contrition

145 Westpac submits that it is entitled to a reduction in penalty when regard is had to the "substantial extent" to which it has co-operated with ASIC. It submits also that a significant ameliorating factor is the "substantial contrition" and acceptance of responsibility it has shown for the admitted contraventions.

146 It is well established that a contravener who has indicated wrongdoing, expressed regret, and indicated a willingness to facilitate the course of justice may be entitled to a reduction in penalty on that basis: *Mornington Inn Pty Ltd v Jordan* [2008] FCAFC 70; 168 FCR 383 at [76] (Stone and Buchanan JJ); *Fair Work Ombudsman v Blakely* [2023] FCA 1121 at [62] (Thomas J). From a public policy perspective, it is important to encourage such co-operation in the assessment of penalty: *Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union* [2017] FCAFC 113; 254 FCR 68 at [163] (Dowsett, Greenwood and Wigney JJ); *Construction, Forestry, Maritime, Mining and Energy Union v Fair Work Ombudsman* [2023] FCA 72; 322 IR 233 at [70] (Rangiah J). See also *Australian Securities and Investments Commission v iSignthis Limited (Penalty)* [2025] FCA 917 at [23]–[25] (McEvoy J).

147 Westpac refers to various ways in which it has co-operated with ASIC, including the disclosure of the identified online hardship notice issues, through its lodgement of breach reports relating to such issues, its co-operation with ASIC’s enquiries and requests for information, and its participation in voluntary meetings with ASIC. Also relevant, Westpac contends, is the fact that it made appropriate admissions in this proceeding, and that it agreed with ASIC in preparing the SOAF, as well as partially agreed to the proposed orders, including ASIC’s adverse publicity order and the compliance order. For its part ASIC does not contest that Westpac has co-operated with it, and in particular that Westpac participated in ASIC’s investigation and has admitted the contraventions and agreed to the facts which comprise the SOAF.

148 With respect to contrition, Westpac submits that the penalty necessary to achieve general deterrence may be moderated to account for a contravenor’s genuine remorse for its contravening conduct. This is particularly so, it submits, when regard is had to the reduced risk of future contraventions. Westpac maintains, referring to *ASIC v Commonwealth Bank of Australia* at [147], that its substantial contrition and accepted responsibility are manifested by its words and actions.

149 In this regard Westpac points to its remediation of affected customers, both as evidence of its contrition and that it has attempted to redress as far as money can the consequences of its contraventions. Westpac also highlights that it has:

- (a) publicly acknowledged that the time taken to identify the issues with its online hardship process, and that customers were impacted as a result, is disappointing;

- (b) publicly apologised at an early stage of these proceedings and conveyed a written apology to all affected customers; and
- (c) admitted liability in respect of the contraventions of s 72 of the Code at the commencement of these proceedings.

150 I accept, as Westpac submits, that an apology can be evidence of contrition, and that remediation can be relevant to the assessment of the appropriate penalty in a proceeding in some circumstances: *Australian Competition and Consumer Commission v Dell Australia Pty Ltd (No 2)* [2023] FCA 983 at [17] (Jackman J); *Australian Securities and Investments Commission v National Australia Bank Ltd* [2021] FCA 1013 at [99] (Davies J).

151 I accept also that Westpac has co-operated with ASIC and that it has apologised for its conduct, that it has accepted liability, and that it has undertaken remediation. All of these matters are evidence of its contrition. Westpac should therefore be given the benefit of some reduction in penalty for co-operation and contrition.

152 I do not accept, however, substantially for the reasons ASIC advances, that such reduction should be significant or that these factors make it appropriate in the circumstances for only a “modest” or moderate penalty to be ordered. First, as ASIC submits, it has taken into account Westpac’s co-operative conduct and contrition when proposing the penalty that it seeks in this proceeding. That is to say that ASIC’s proposed penalty of \$30 million already accounts for Westpac’s extensive co-operation during the investigation, including its admissions of contravention, its apologies, and its remediation of affected customers.

153 Secondly, Westpac’s submissions about the significance of its remediation program must be tempered by the fact that there is subsisting harm that cannot be financially remediated, and also by the fact that in the context of ss 47 and 48 of the Credit Act Westpac had a statutory obligation to remediate the affected customers. As ASIC notes, those provisions require operators of a credit license to have adequate compensation arrangements to compensate customers for loss or damage suffered due to contraventions of the Credit Act: see *ASIC v Westpac (Omnibus)* at [123]; *ASIC v Westpac Banking* at [285]. ASIC notes also in this regard that Westpac’s co-operation in this proceeding is as much a reflection of obligations imposed on it as it is of a culture of compliance.

154 It is also relevant to observe that despite Westpac’s co-operation, and the evidence of contrition to which it draws attention, there are aspects of its submissions that might be said to attempt to

minimise the severity and seriousness of the contraventions. This is evident, for example, in Westpac’s attempt to cavil with ASIC’s submissions on the basis that the number of affected customers was “extremely small”, that “it is unrealistic to expect ... that an organisation such as Westpac could have identified some broader issue from 16 complaints”, that it is relevant that the systemic nature of the issues was difficult to identify, and that customers may have received hardship assistance from Westpac despite their online hardship notices not being received. Westpac also appears to maintain only that its conduct “could” undermine the purpose of the legislative regime that it has contravened. It must be said that some of these submissions have a certain tin-eared quality to them. In this regard, I am inclined to the view that Westpac continues to demonstrate a not altogether sufficient appreciation for the severity and impact of its conduct. While I do not criticise Westpac for making submissions in support of a lesser penalty, those submissions at times have not struck a tone of genuine contrition.

155 Further, as ASIC submits, any analysis of Westpac’s co-operation, its contrition, and indeed its culture of compliance, must be viewed in the context that the contraventions the subject of this proceeding occurred and were not addressed over a lengthy period of time during which Westpac was at some level on notice of the relevant problems and failures. Westpac’s post-contravention conduct cannot in this regard outweigh the failures that have occurred, and any inference which can be drawn as to Westpac’s compliance culture is necessarily limited: see *ASIC v AMP* at [136].

Investment in technology and risk of the conduct recurring

156 ASIC submits that Westpac’s systems failures were caused by ageing technology systems which were neither appropriate nor fit for purpose, and that there has been sustained underinvestment in these systems. ASIC draws the court’s attention to several reviews and audit reports that identify a limited investment by Westpac in its hardship and collections technology. These include certain reports referred to at paragraphs [110] to [115] of the SOAF.

157 ASIC emphasises once again that Westpac failed adequately to identify and investigate whether there was a systemic issue with its online hardship notice systems, processes and operations until 31 January 2022, despite complaints and incident reports being raised prior to this time. The failure to investigate whether there was a systemic issue over a period of several years reflects poorly on Westpac, including on its culture of compliance. It is not conduct that can be countenanced, particularly by a major bank.

158 Westpac submits that ASIC’s contention that Westpac has underinvested in technology should not be given material weight on the subject of penalty. It contends that this submission is a generalised criticism of Westpac’s business practices as a whole, and not specific to the hardship systems and processes which are the subject of this proceeding, and that there is no suggestion that Westpac’s conduct involved a cynical calculation in weighing up the cost of compliance against the risk of penalty of the kind identified in *Singtel Optus* at [62]–[63]. Westpac notes also that in May 2023 it approved funding for a technology transformation program to uplift and transform the technology used in its online hardship systems and process, including to consolidate them into a single end-to-end system. Westpac submits that as at the date of the proceeding, it had invested approximately \$15 million in this regard. Westpac emphasises that it has decommissioned the legacy systems that led to the Systems and Operational Failures. I accept that all this is so.

159 Westpac further submits that ASIC seeks to justify a higher pecuniary penalty in this proceeding by relying on conduct which occurred prior to 13 March 2019, as well as investigation and technology issues outside the online hardship notices process. Westpac contends that submissions made by ASIC on these subjects ought to be given little weight because the court’s task is to “decide the appropriate penalty in respect of the contravening conduct” only: *Reckitt* at [37]; see also *ASIC v AMP Financial Planning Pty Ltd (No 2)* at [162] and relatedly, *R v De Simoni* [1981] HCA 31; 147 CLR 383 at 392 (Gibbs CJ).

160 It is correct that only conduct occurring after 13 March 2019 attracts the civil penalty provision. This must be kept front of mind, and I accept what Westpac says in this respect. However, ASIC submits that the court may rely on conduct prior to this period in order to provide relevant context and so that the court may consider the cause of the contravening conduct and the steps and time taken to identify the systemic issues: see, for example, *ASIC v Westpac (Omnibus)* at [409]–[412]; *ASIC v AMP* at [47]–[54]; *Australian Securities and Investments Commission v AMP Superannuation Limited* [2023] FCA 488; 168 ACSR 206 at [144] (Hespe J) (*ASIC v AMP Superannuation Limited*). I accept that this is also the position.

161 ASIC submits that there is no need to limit the court’s consideration of investigation and technology issues outside the online hardship notices process. ASIC contends that Westpac’s systems failures are intertwined with, and caused by, ageing technology systems which were not appropriate or fit for purpose and that these matters are directly relevant to the court’s consideration of deterrence and penalty. I accept ASIC’s submissions in this respect also.

162 Having regard to what has occurred, I also consider it relevant that the parties have agreed to certain compliance program orders being made in these proceedings to provide assurance that the new technology systems and processes instituted by Westpac for dealing with online hardship notices ensure compliance with s 72(4) of the Code. Westpac submits that contraventions of s 72(4) of the Code are significantly less likely to reoccur because of this program, and that this mitigates the need for specific deterrence. Without overlooking what has occurred, I accept that these measures make future contraventions in this dimension less likely.

Parity

163 Despite the well-known limitations of the parity principle in the context of civil penalty proceedings, both Westpac and ASIC submit that like authorities may offer some guidance to the court as to the appropriate penalty.

164 ASIC refers the court to a number of cases involving large financial institutions which it submits may assist in the court's application of the parity and totality principles. These include:

- (a) the *ASIC v Westpac (Omnibus)* proceedings, where the court imposed penalties totalling \$113 million across Westpac and its subsidiaries, including in one proceeding ordering an agreed penalty of \$40 million against Westpac and related entities for contraventions involving the charging of thousands of deceased customers for financial advice services (with the penalty period restricted to four years): see at [293]–[331];
- (b) *ASIC v AMP*, where the court imposed a total penalty of \$14.5 million against all respondents for contravening s 12DI(3) of the ASIC Act as well as making declarations that all respondents had breached their obligations under s 912A(1)(a) of the Corporations Act in circumstances where AMP had deducted plan service fees from 1,452 members' superannuation accounts after they had ceased employment with their employment-sponsors and no longer had access to general advice services;
- (c) *ASIC v AMP Superannuation Limited*, where the court imposed a total penalty of \$24 million on AMP Life Limited and AMP Financial Planning Pty Limited for contraventions of ss 12CB and 12DI(3) of the ASIC Act in respect of fees wrongly deducted from deceased members' accounts; and
- (d) *ASIC v CBA*, where the court imposed a pecuniary penalty of \$7 million in respect of contraventions of s 12DB(1)(g) of the ASIC Act for conduct related to a coding defect that resulted in the bank overcharging interest during a 3.25 year period, affecting 1,510 customers.

- 165 ASIC accepts that these cases can be distinguished from the present proceeding. ASIC submits that in the majority of the analogous proceedings the relevant period pre-dated the Strengthening Penalties Act reforms, which obviously constrained the court's assessment on penalty. ASIC notes that the analogous cases did not concern separate and continuing contraventions (which it submits is the effect of s 175A on this proceeding) and any prior similar conduct was not considered a material aggravating factor. Further, ASIC submits, the non-monetary harm caused to affected customers in the present case is graver than in the analogous cases and, save for the *ASIC v AMP* proceeding, the remediated financial harm was higher than in the present case.
- 166 Westpac submits that the majority of the decisions ASIC refers to involve a significantly lower penalty than that proposed by ASIC. It refers in this regard to *ASIC v AMP Superannuation Limited* at [136]–[169]; *ASIC v Westpac (Omnibus)* at [162]–[173], [176]–[194], [355]–[399], [441]–[471], [534]–[560]; *Australian Securities and Investments Commission v National Australia Bank Limited* [2020] FCA 1494 at [123]–[162] (Lee J) (***ASIC v National Australia Bank Limited***); *ASIC v AMP* at [119]–[151]; *ASIC v CBA* at [23]–[41]; *Membo Finance (No 2)* at [80]–[113].
- 167 Westpac also draws the court's attention to a number of other recent cases against financial institutions or involving contraventions of s 47 of the Credit Act and s 72(4) of the Code, or like provisions under the Corporations Act or the ASIC Act, where penalties in amounts of between \$5 million and \$12 million have been imposed: see *Australian Securities and Investments Commission v MLC Limited* [2023] FCA 539; 168 ACSR 122 (Moshinsky J) (***ASIC v MLC Limited***); *Australian Securities and Investments Commission v OnePath Custodians Pty Ltd* [2023] FCA 1485 (Stewart J) (***ASIC v OnePath***); *Australian Securities and Investments Commission v RACQ Insurance Limited* [2023] FCA 1503 (Downes J) (***ASIC v RACQ Insurance***); *ASIC v Mercer*; *Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited* [2023] FCA 1150; 169 ACSR 649 (Beach J) (***ASIC v ANZ***). Westpac draws attention also to *Australian Securities and Investments Commission v Ferratum Australia Pty Ltd (in liq) (No 2)* [2024] FCA 701 at [9]–[28] (Kennett J) (***ASIC v Ferratum (No 2)***) where a penalty of \$16 million was imposed. While Westpac accepts that each of these cases is fact specific, it submits that they may provide guidance to the court on the appropriate penalty to be imposed in this proceeding.

168 Westpac submits also that the objective seriousness of its conduct in this proceeding falls well short of other cases concerning the provision of credit and financial services and in which penalties lower than that now sought by ASIC were ordered. It refers again in particular to: *ASIC v OnePath*, *ASIC v MLC Limited*, *ASIC v RACQ Insurance*, *ASIC v Mercer*, *ASIC v ANZ* and *ASIC v Ferratum (No 2)*). Westpac submits that the number of contraventions and impacted customers in the present case are distinguishable from cases involving thousands or even hundreds of thousands of customers. It refers in this regard to *ASIC v Ferratum (No 2)*, *ASIC v OnePath*, *ASIC v CBA*, and *ASIC v RACQ Insurance*.

169 In addition, ASIC and Westpac each provided written supplementary submissions on the subject of parity following the court's decision in *ASIC v NAB*. That proceeding concerned admitted contraventions of s 72(4) of the Code by the National Australia Bank (**NAB**) and its subsidiary AFSH Nominees Pty Ltd (**AFSH**). NAB was found to have contravened s 72(4) of the Code on 282 occasions, and AFSH was found to have contravened s 72(4) of the Code on 63 occasions. On the basis of agreed facts and joint submissions on liability and relief, Neskovcin J considered that the agreed pecuniary penalty of \$13 million for NAB and \$2.5 million for AFSH was just and appropriate: *ASIC v NAB* at [1]–[4].

170 Westpac submits that the court should take account of the agreed penalty in *ASIC v NAB* in the present case. It submits that in light of *ASIC v NAB* the court cannot impose the penalty amount sought by ASIC. In this regard, Westpac submits that there are material common elements between the two proceedings, including that in each case:

- (a) the banks admitted that they had contravened s 72(4) of the Code because they failed to provide a written response to hardship notices given by customers within the statutory timeframe prescribed by s 72(5) of the Code;
- (b) the contravening conduct was neither deliberate nor reckless;
- (c) senior management was not involved;
- (d) the contravening conduct occurred over several years;
- (e) the banks had rectified the causes of the contraventions;
- (f) the banks had implemented customer remediation programs and demonstrated contrition by the time of judgment;
- (g) the banks had co-operated with ASIC during its investigations and the proceedings; and

(h) while there had been no previous contravention of the Code, both banks have been found to have contravened relevant consumer protection provisions.

171 ASIC accepts that there are factual similarities between *ASIC v NAB* and this proceeding. However, to the extent that *ASIC v NAB* might be said to provide some broad guidance, ASIC submits that there are a number of important distinctions that support a significantly higher penalty being appropriate in the present case. These are as follows.

- (a) First, in addition to the s 72(4) Code contraventions, ASIC points to the fact that this proceeding concerns Westpac’s admitted contraventions of s 47(1)(a) and (4) of the Credit Act resulting from Westpac’s online hardship systems, processes, and operations not being efficient, honest, or fair, at two different levels. Such contraventions, ASIC correctly notes, did not form part of *ASIC v NAB*. In the present proceeding, ASIC submits that the court ought to impose a separate pecuniary penalty of \$10 million for the s 47 contraventions, reflecting the position that Westpac’s failure was systemic, and more serious, compared to NAB’s contravention.
- (b) Secondly, ASIC submits that in the present proceeding there are additional serious and aggravating factors, including that Westpac’s contravening conduct occurred in circumstances where, prior to its discovery and identification in January 2022, numerous internal incident reports had been lodged, and customer complaints made, about ignored online hardship applications. ASIC also submits that Westpac’s failure to investigate a possible systemic issue despite these complaints and internal reports reflects very poorly on Westpac’s culture and that the customer harm in this proceeding is more serious than that in *ASIC v NAB* where the parties agreed that there was “no ascertained loss suffered by customers as a result of the contraventions”: *ASIC v NAB* at [64].
- (c) Thirdly, ASIC submits that the cause of the contravening conduct is materially different in this proceeding because *ASIC v NAB* concerned human error, not defective online hardship and risk assessment systems. ASIC submits that these systems-related contraventions, caused by the apparent failure by Westpac to invest in appropriate technology, require a significantly higher penalty for deterrence purposes.
- (d) Fourthly, ASIC submits that the Systems and Operational Failures in this proceeding are broader and more complex than those considered in *ASIC v NAB*, which concerned a single type of failure. ASIC also draws the court’s attention to the fact that NAB and

ASFH had implemented various controls prior to the commencement of that proceeding which had been audited, unlike the circumstances of the present proceeding: *ASIC v NAB* at [79].

- (e) Fifthly, ASIC submits that the duration of the contravening period in this proceeding is longer, being seven years as compared to the almost five-year contravening period in *ASIC v NAB*: *ASIC v NAB* at [3].
- (f) Sixthly, ASIC submits that the prior contravening conduct in *ASIC v NAB* was less analogous to the prior contravening conduct in this proceeding.
- (g) Lastly, ASIC submits that contrary to the present case the fact that penalty and liability were agreed at the earliest opportunity in *ASIC v NAB* entitled NAB to a larger discount on penalty because it freed up the regulator's resources to deal with its other enforcement activities. ASIC submits that where an agreed penalty is imposed in another case particular caution must be exercised in treating that penalty as providing a comparable benchmark. This is because the parties have considerable scope to agree upon the facts, the consequences, and the appropriate remedy, and that there are important public policy reasons to accept the views of the regulator and the parties in reaching an agreed penalty, especially given that there is a permissible range of penalties within which no particular figure is more appropriate than another: *Agreed Penalties Case* at [46], [57] (French CJ, Kiefel, Bell, Nettle and Gordon JJ) and [109] (Keane J); *Volkswagen Aktiengesellschaft v Australian Competition and Consumer Commission* [2021] FCAFC 49; 284 FCR 24 at [127]–[128] (Wigney, Beach and O'Bryan JJ).

172 Obviously there is an important public policy involved in promoting predictability of outcome in civil penalty proceedings: *Agreed Penalties Case* at [46]. However, even though similar contraventions should incur similar penalties, a penalty in one case cannot dictate the penalty in a later case: *Singtel Optus* at [60]; *Flight Centre Limited v Australian Competition and Consumer Commission (No 2)* [2018] FCAFC 53; 260 FCR 68 at [69] (Allsop CJ, Davies and Wigney JJ); *NW Frozen Foods* at 295–296 (Burchett and Kiefel JJ, Carr J agreeing).

173 Ultimately, as I observed in *ASIC v Mercer* at [69], each case must turn on its own facts, and the court is not generally assisted by a comparison of penalties imposed in other cases. It is for this reason that Westpac's rather detailed submissions about other penalties ordered in respect of conduct in financial services cases are of little real assistance. This is especially so when

seeking to compare a proceeding where there is no agreed penalty to one where there has been an agreed penalty, which is most likely the result of compromise and pragmatism on the part of the regulator. In any event, I accept ASIC’s characterisation of the differences between the circumstances in *ASIC v NAB* and the present case. In my assessment, for substantially the reasons I have outlined, Westpac’s conduct is more serious and extensive, it caused harm, some of which is irreparable, and it warrants deterrence at a higher level. I accept ASIC’s submission that even allowing for the similarities between the two cases, the important differences favour a significantly higher pecuniary penalty in this case.

Course of conduct and totality principles

174 Westpac’s position is that it is entitled to a reduction in the total pecuniary penalty due to the application of the course of conduct principle. Westpac submits that its contraventions of s 47 of the Credit Act are substantively and qualitatively the same conduct and therefore should be treated as a single contravention. Westpac contends that to treat its contraventions of s 47 as any more than one contravention is inconsistent with treatment of like contraventions in similar cases where, it submits, attempts by ASIC to divide contraventions into various sub-categories has been rejected: referring to *Membo Finance (No 2)* at [112]; *ASIC v Ferratum (No 2)* at [7]; *ASIC v National Australia Bank Limited* at [112].

175 Westpac submits further that there is “substantial, if not complete” overlap between the contraventions of the general obligation to perform licensed work efficiently, honestly and fairly under s 47(1)(a) of the Credit Act and the contraventions of s 72 of the Code, such that the penalty should take this into account to avoid the double punishment rule under s 175 of the Credit Act: *Membo Finance (No 2)* at [112]; *ASIC v Ferratum (No 2)* at [30].

176 ASIC disputes Westpac’s characterisation of the contravening conduct, and submits that the admitted contraventions of s 47(1)(a) and (4) of the Credit Act amount to two separate contraventions because they address two distinct levels of systems and processes. These concern, separately:

- (a) the actual online hardship systems, controls and processes which administered Westpac’s response to customer hardship requests; and
- (b) a separate and distinct tier of systems and processes being Westpac’s risk review, monitoring and risk management processes.

177 ASIC submits that *Membo Finance (No 2)*, *ASIC v Ferratum*, and *ASIC v National Australia Bank Limited*, properly understood, do not undermine what it suggests is the distinct and separate nature of the contraventions of s 47 of the Credit Act.

178 ASIC submits further that the conduct amounting to each contravention pursuant to s 47 of the Credit Act is separate from the conduct which amounts to a contravention of s 72 of the Code. It maintains that the four System Failures and three Operational Failures could, at a high level of abstraction, be construed as being seven courses of conduct. However, ASIC accepts that such an approach would distract attention from the conduct amounting to each contravention under s 47(1)(a) of the Credit Act and s 72(4) of the Code.

179 ASIC's position ultimately is that application of the course of conduct principle is of little assistance in this proceeding, and that the preferable approach is to have regard to the nature, extent and circumstances of the contravening conduct, then to apply the totality principle to ensure that the total aggregate penalty is just and proportionate and that there is no double punishment: see *ASIC v AMP* at [122]; *ASIC v AMP Superannuation Limited* at [142]; *ASIC v Mercer* at [137]–[138]. For the reasons that follow, I accept ASIC's submission that this is the preferable approach.

180 Section 175 of the Credit Act provides that if a person is ordered to pay a pecuniary penalty under a civil penalty provision in relation to particular conduct, the person is not liable to be ordered to pay a pecuniary penalty under some other provision of a law of the Commonwealth in relation to that conduct.

181 In *Australian Securities and Investments Commission v Commonwealth Bank of Australia* [2020] FCA 1543, Murphy J relevantly observed at [67]:

The “particular conduct” to which s 175 refers is the constituent acts or omissions that a wrongdoer has committed – that is what the wrongdoer actually did. It refers to the constituent physical acts or omissions and does not include “any necessary elements of character or circumstance that, when added to those acts or omissions, constitute the particular contravention”. So much is made clear in *CFMMEU v ABCC* at [17] – [26].

182 ASIC submits, and I accept, that s 72 of the Code and s 47(1)(a) of the Credit Act concern different conduct. Westpac admits that it failed to give a written decision notice at least on 223 occasions thereby contravening s 72 of the Code. Westpac has separately contravened s 47(1)(a) of the Credit Act as it has not engaged in conduct efficiently, honestly and fairly because of inadequacies in its systems and processes.

183 It follows, as ASIC submits, that s 175 does not apply in the circumstances of this case. The court may order declaratory relief and impose civil penalties in respect of each of the s 72 contraventions and the s 47 contraventions.

184 Where there are numerous contraventions arising from separate acts, the starting point is that each contravention should ordinarily attract the imposition of a separate penalty: see *ACCC v Yazaki* at [227]. To avoid double punishment, however, it is also appropriate to consider whether the contravening conduct should be considered as a single “course of conduct” due to the interrelationship between the legal and factual elements of multiple contraventions: *Construction, Forestry, Mining and Energy Union v Cahill* [2010] FCAFC 39; 269 ALR 1 at [39], [41]–[42] (Middleton and Gordon JJ).

185 As ASIC submits, in cases such as this, which involve a very large number of contraventions, the courts have been reluctant to make precise findings about numbers of contraventions, or to rely on the maximum aggregate penalty by reference to that number: see *ASIC v AMP* at [122]; *ASIC v AMP Superannuation Limited* at [142]; *ASIC v Mercer* at [138].

186 In all the circumstances I do not consider that Westpac is entitled to a reduction in the total pecuniary penalty due to the application of the course of conduct principle. As Moshinsky J observed in *ASIC v AMP* at [122], and as ASIC submits, the preferred approach is to have regard to the nature and extent, and the circumstances, of the contravening conduct, including its common features, rather than determining whether the conduct constitutes a single “course of conduct”. It is for this reason that Westpac should not have any reduction in penalty on the basis that it engaged in a single course of conduct. Westpac’s conduct involved failures to provide written decision notices in response to hardship notices within the statutory timeframes or at all, and related but separate failures to implement, maintain and monitor the relevant systems, investigate the failures in those systems, and maintain adequate risk management procedures.

187 Nevertheless, I have given careful consideration to the totality principle in determining the appropriate penalty to be imposed against Westpac to ensure that it is just and proportionate to the contravening conduct, considered as a whole.

Conclusion as to the appropriate pecuniary penalty

188 As will be apparent from the above consideration, I accept that Westpac’s contraventions in this case were very serious. They were more serious than those which were the subject of the

court's attention in *ASIC v NAB*. They impacted many vulnerable customers and continued over an extended period. It may in fact be said that the circumstances faced by the affected customers means that their financial vulnerability cannot be overstated. As is apparent from the Banking Code of Practice, they were the very customers that the hardship provisions of the legislative scheme are designed to protect. Westpac's conduct significantly undermined the legislative scheme.

189 While the contraventions were not suggested to be deliberate and arose instead from inadequate systems and operational failures, I have accepted that they were grossly negligent. ASIC submits, and I accept, that Westpac's delay in identifying and correcting these known issues warrants a significant pecuniary penalty for deterrence purposes. This is an aspect of matters which makes Westpac's conduct particularly serious. The penalty arrived at must be sufficiently high to deter Westpac repeating the contravening conduct, and to deter other large credit providers who may be at risk of engaging in similar conduct. This is especially so in the context of Westpac's previous contraventions of civil penalty provisions with respect to similar systems failures and errors in the context of the provision of financial services.

190 A particularly serious aspect of Westpac's contraventions is that they caused a number of customers to have adverse credit information recorded on their credit files, and debts to be sold to third-party debt purchasers who then engaged actively in conduct to pursue those debts. These circumstances add an additional layer of harm, and significance, to Westpac's conduct. In my assessment the fact that the affected customers were not only denied assistance by Westpac when that assistance was legitimately sought, but that further irreparable harm was caused, makes the contraventions particularly egregious.

191 I am satisfied also that there are several other circumstances that justify a significant penalty. Westpac's size, the level of its profits and its market position are relevant to a consideration of what may be considered as an acceptable cost of doing business.

192 I accept, however, that there are some mitigating factors which must result in a somewhat lower penalty than is sought by ASIC. I have accepted that Westpac has taken steps to invest in and improve its systems and processes for online hardship notices, including decommissioning the legacy systems involved in the systems and operational failures in question. I also consider that, despite ASIC having had regard to Westpac's contrition and co-operation in reaching the penalty amount that it considers appropriate, Westpac is entitled to at least some further reduction on that basis. I have also noted that Westpac has completed a comprehensive

remediation of affected customers, and that remediation has included compensation to the extent possible for non-financial loss, and that despite the number of Westpac's contraventions, and the length of the Relevant Period, Westpac investigated and promptly took steps to address the Systems and Operational Failures when they were identified in 2022.

193 It is also a factor in my determination of the appropriate penalty to be ordered that ASIC has accepted that Westpac has not profited from the contraventions inadvertently or otherwise, and that ASIC has withdrawn its submission to this effect. I have accepted that the penalty sought by ASIC must necessarily be reduced in order to reflect this.

194 In weighing all these matters, and endeavouring to balance the need for specific and general deterrence with the importance of ensuring that the amount of the pecuniary penalty is not so high as to be oppressive, I have concluded that a pecuniary penalty of \$30 million as proposed by ASIC would be somewhat more than would be required to achieve the necessary deterrent effect in this case, and may therefore be said to be inappropriate. However, a pecuniary penalty of \$10 million as proposed by Westpac would be little more than derisory in the circumstances and therefore wholly inappropriate.

195 Having regard to all of the circumstances I have determined that a pecuniary penalty of \$26 million is appropriate and proportionate. I have reached this conclusion primarily due to the serious and extensive nature of Westpac's conduct as one of the four major banks; the gross negligence which that conduct demonstrated; the significant harm that has been caused, some of it irreparable; Westpac's ongoing history of systems failures; and the fact that there were opportunities to avoid the continuing nature of the contraventions when the problem first surfaced which were not taken. In Westpac's favour I have had regard to the fact that Westpac did not profit from the contraventions and has remediated customers to the extent possible; that cooperation and contrition which it has demonstrated; and the fact that Westpac has taken steps to avoid conduct of this kind happening again. Bearing in mind the principle of totality I consider that pecuniary penalty of \$26 million would be just and proportionate to the contravening conduct considered as a whole.

ANCILLARY ORDERS

196 ASIC has sought and Westpac has agreed that the orders to be made include an adverse publicity order that requires Westpac to publish a written adverse publicity notice on its website and the websites of the Other Westpac Brands.

197 Pursuant to s 182 of the Credit Act, the court may make adverse publicity orders against a person who has contravened a civil penalty provision of the Act. An “adverse publicity order” is defined in s 182(2) of that Act. The purpose of such a notice is both punitive and protective, in the sense of dispelling incorrect or false impressions and/or alerting consumers to the fact of contravening conduct: *Australian Securities and Investments Commission v Commonwealth Bank of Australia (No 2)* [2021] FCA 966 at [7]–[17] (Lee J).

198 The parties have agreed to the terms of this order and the method of publication. I am satisfied that in the circumstances the proposed adverse publicity order is appropriate to alert the broader public and customers of Westpac and of the Other Westpac Brands to the fact of the contravening conduct.

199 ASIC also seeks, and Westpac consents, to certain orders regarding the implementation of a compliance program.

200 Section 177 of the Credit Act provides the court with a power to grant an injunction on such terms it considers appropriate where it is satisfied that a person has engaged or is proposing to engage in conduct that constitutes or would constitute a contravention of the Act.

201 As ASIC submits, the compliance orders have a sufficient connection to Westpac’s contravening conduct and are sufficiently clear, unambiguous and capable of compliance. Further, in circumstances where Westpac has announced that it will commence a technological simplification update, I accept that the orders are necessary and will ensure the appointment of an independent expert to report to ASIC on the changes to Westpac’s systems, operations and processes and their compliance with s 72(4) and (5) of the Code, as well as to make recommendations to bring those systems, process and operations into a state of compliance.

202 Given that the compliance program orders sought by ASIC are agreed to by Westpac, and they appear to be suitable, I consider it is appropriate that the orders be made in the terms proposed.

COSTS

203 The parties have agreed that Westpac should pay ASIC’s costs of and incidental to this proceeding, to be agreed or assessed. There will therefore be a costs order in the terms proposed.

I certify that the preceding two hundred and three (203) numbered

paragraphs are a true copy of the
Reasons for Judgment of the
Honourable Justice McEvoy.

Associate: HBB

Dated: 26 May 2026

ANNEXURES

Annexure A – Statement of Agreed Facts



Statement of Agreed Facts

No. VID 695 of 2023

Federal Court of Australia
District Registry: Victoria
Division: Commercial and Corporations

Australian Securities and Investments Commission

Applicant

Westpac Banking Corporation (ACN 007 457 141)

Respondent

A. OVERVIEW

1. This proceeding concerns the failure of the Respondent (**Westpac**) to respond to certain online hardship requests of its customers within the timeframes required by ss 72(4)-(5) of the National Credit Code (**Code**) (being Schedule 1 to the *National Consumer Credit Protection Act 2009* (Cth) (**Credit Act**)), or at all, and Westpac's failure to engage in its credit activities efficiently, honestly and fairly, as required by s 47(1)(a) of the Credit Act. Westpac's online hardship notice system in its current form commenced from 2 October 2015. The agreed contravention period is between 4 September 2017 to 8 May 2023 (**Agreed Contravention Period**), but without prejudice to ASIC's allegation that the contravention period extends to 7 June 2023 and ASIC relying on s 175A of the Credit Act for customers who submitted their online hardship request prior to 4 September 2017.
2. This Statement of Agreed Facts (**SoAF**) sets out facts agreed by the parties for the purposes of this proceeding and s 191 of the *Evidence Act 1995* (Cth) which the parties have agreed are not, for the purposes of this proceeding only, to be disputed. Nothing in this SoAF precludes the parties from filing a supplementary SoAF or relying upon further evidence at any liability or penalty hearing.

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

[Form approved 01/08/2011]

B. THE PARTIES

3. The Applicant (**ASIC**) is a body corporate able to sue and be sued, empowered to exercise the functions and powers conferred upon it under the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), the *Corporations Act 2001* (Cth) (**Corporations Act**) and the Credit Act.
4. Westpac is a duly incorporated company able to be sued in and by its corporate name and style.
5. At all material times, Westpac held Australian credit licence 233714¹ which authorised it to:
 - a. engage in credit activities within the meaning of s 6 of the Credit Act; and
 - b. provide credit under credit contracts, to the provision of which the Code applies.
6. At all material times, St George, BankSA and Bank of Melbourne (**Other Westpac Brands**) operated under Westpac's Australian credit licence and were, and are, trading brands of Westpac.

C. WESTPAC'S ONLINE HARDSHIP NOTICE SYSTEMS AND PROCESSES

7. In the period since 2 October 2015, customers who had entered into a credit contract, within the meaning of s 4 of the Code, with Westpac or the Other Westpac Brands could give a hardship notice by completing an online form via the public websites of Westpac and the Other Westpac Brands (**Online Hardship Notice**).
8. The purpose of an Online Hardship Notice was for a customer to notify Westpac that they were unable to meet their obligations under their credit contract. The online form on Westpac's and the Other Westpac Brands' websites contained several fields to be completed by the customer, including the reason that the customer was unable to meet their obligations under their credit contract.
9. Westpac's systems and processes for Online Hardship Notices involved the Online Hardship Notice being submitted by a customer via Westpac's and the Other Westpac Brands' websites, which was designed to be processed by the OneClick system and then transferred to other systems in several steps to be processed by Westpac's Customer Assist team, which team actioned the request for hardship assistance (**Online Hardship Process**). The system(s) that the Online Hardship Notice was transferred to depended on the credit product(s) the hardship notice related to.
10. Westpac introduced the OneClick system on 2 October 2015 and Tallyman was added to the Online Hardship Process from 29 November 2015.²

¹ WOH.7000.0004.0014.

² WFH.0011.0002.0002 at .0003.

11. The automated process of transferring the data or information that the customer included in their Online Hardship Notice to the relevant downstream collections systems, at a high level, involved the following four steps:³

Step 1: Receiving the hardship application information submitted into a database via a system called 'OneClick'.

Step 2: Transferring the hardship application information from the OneClick database to a central drive called the 'J Drive' via a batch transfer process which ran every 15 minutes between 8am and 8pm.

Step 3: Processing the file received in the J Drive via a 'file watcher' batch job which:

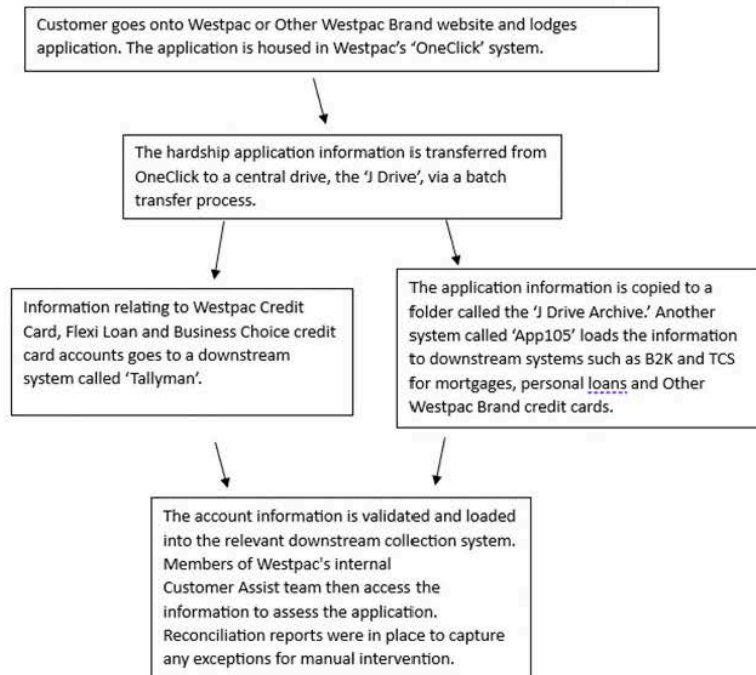
- a. moved Westpac Credit Card, Flexi Loan and Business Choice Card accounts to Tallyman; and
- b. copied the hardship application information from the central drive (J Drive) to a folder on the J Drive called the 'J Drive Archive', for that information to be imported by App105 for Westpac mortgages and personal loans, Other Westpac Brand credit cards, personal loans and mortgages for account validation purposes.

Step 4: Validating account information in Tallyman and App105 and loading the relevant information into the downstream collections system, which allowed the Customer Assist team to action the customer's application for hardship assistance. Reconciliation reports were in place to capture any exceptions for manual intervention.

12. Figure 1 is a diagram of Westpac's systems and processes for Online Hardship Notices.

Figure 1

³ WFH.0003.0001.0448 at .0470.



D. WESTPAC'S FAILURE TO RESPOND TO CUSTOMERS' ONLINE HARDSHIP NOTICES

13. From 2 October 2015:

- a. Westpac customers submitted Online Hardship Notices to Westpac or the Other Westpac Brands, via Westpac's website or the Other Westpac Brands' websites, to request a beneficial change to their obligations under their existing credit contract;
- b. At least 1,014 Online Hardship Notices submitted by 1004 customers (**Total Affected Customers**) were either not sent to Westpac's Customer Assist team for processing, or were not processed properly, or at all, by Westpac's Customer Assist team. Nothing in this paragraph 13.b prejudices ASIC's allegation that there were 1,397 Online Hardship Notices submitted by 1,365 customers during this period which were either not sent to Westpac's Customer Assist team for processing, or were not processed properly, or at all, by Westpac's Customer Assist team; and
- c. Westpac did not give a written decision notice in response to 288 Online Hardship Notices submitted by Affected Customers within the statutory timeframe prescribed by s 72(5) of the Code, or at all (**Total Affected Notice Customers**).

14. During the Agreed Contravention Period, Westpac did not give a written decision notice in response to 224 Online Hardship Notices submitted by Affected Customers within the statutory timeframe prescribed by s 72(5) of the Code, or at all (**Affected Notice Customers**).
15. Details of the 288 Online Hardship Notices submitted by the Total Affected Notice Customers, are set out in **Annexure A**.
16. With respect to each Online Hardship Notice in Annexure A:
 - a. a credit contract within the meaning of s 4 of the Code was on foot between Westpac and each of the Total Affected Notice Customers and Affected Notice Customers who had submitted the Online Hardship Notice;
 - b. each credit contract referred to in paragraph 16.a was regulated by the Code; and
 - c. at least one of the credit contracts to which the Online Hardship Notice related was entered into on or after 1 March 2013.

E. DEFICIENCIES WITH WESTPAC'S ONLINE HARDSHIP NOTICE SYSTEMS AND PROCESSES

17. From 2 October 2015, Westpac's systems and processes for Online Hardship Notices were deficient in several material respects. These deficiencies included system failures, IT errors and operational or processing deficiencies.

System Failure A⁴

18. System Failure A was first identified by an employee in Westpac's Customer Assist team on 25 January 2022 and lodged in Westpac's incident management system, JUNO, on 31 January 2022.
19. The root causes of System Failure A were errors in the OneClick system, which meant that some Online Hardship Notices were not transmitted to the central drive (the J Drive) to be processed and sent to systems used by the Customer Assist team (e.g., B2K, TCS and Tallyman) to action the Online Hardship Notices. That is, there was a system breakdown in step 2 of the 4 step process referred to at paragraph 11.⁵
20. Figure 2 and Figure 3 below are diagrams explaining two of the root causes of System Failure A.⁶

⁴ Incident No. INC000190597.

⁵ WFH.0003.0001.0448 at .0471.

⁶ WOH.0001.0001.0069 and WOH.0001.0001.0069.0001.

Figure 2

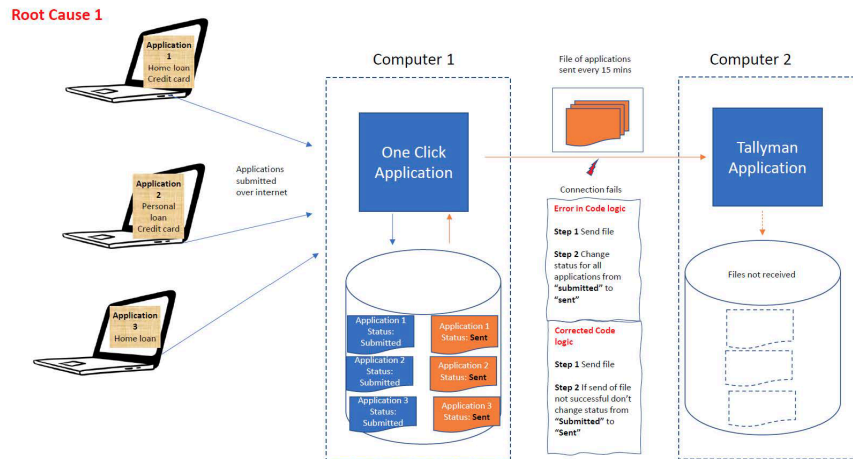
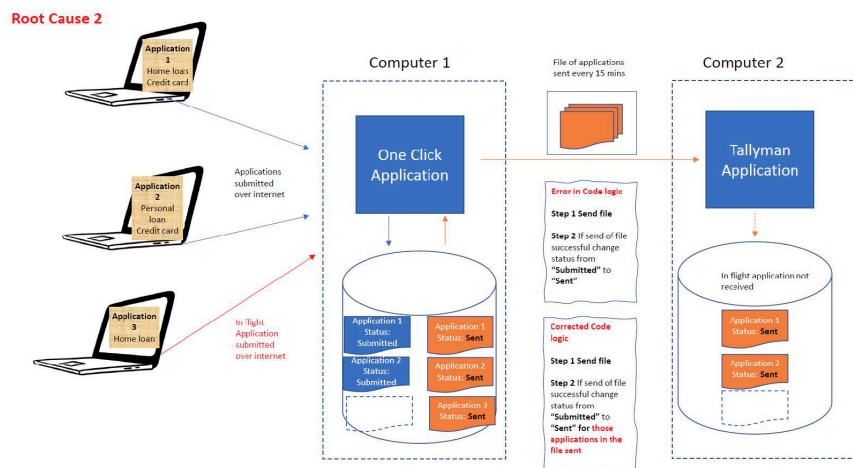


Figure 3



21. The causes underlying System Failure A were:

- a. although there were controls in place for the OneClick and Tallyman systems generally, there was a lack of a control in place to reconcile all Online Hardship Notices received by the OneClick System that were also received by the Tallyman system,⁷ or to detect where an Online Hardship Notice was not received by the Tallyman system;⁸

⁷ WFH.0011.0002.0002 at .0004.

⁸ WFH.0011.0002.0002 at .0004.

- b. a flaw in the OneClick transfer logic meant that the status of a file was marked as "sent" prior to an attempted transfer. This resulted in the file not being included in the next batch transfer because the status was marked as "sent";⁹
 - c. an error that meant that OneClick did not transfer data for an Online Hardship Notice if that notice was submitted during the short time (typically, less than a minute) that OneClick was sending a batch, which meant that the status of these files were marked as "sent", and as such these files were also not included in the next batch transfer;¹⁰
 - d. an error in the WinSCP component used by OneClick which resulted in the OneClick batch jobs not properly detecting all types of file transfer failures.¹¹
22. Initial IT fixes implemented or introduced did not fully resolve the IT errors for System Failure A¹² and led to an additional control failure described as Operational Failure B below.
 23. On 25 February 2021, the OneClick Level 3 support team implemented a system fix which was intended to automatically resend Online Hardship Notices if there was a failure in the file transfer. This fix was recorded in a ticket in Service Now. Service Now was Westpac's Service Management tool that managed Technology Service Management tasks (i.e. it was an IT ticket system). However, this system fix did not detect all types of file transfer failures, which meant that some Online Hardship Notices continued to not be received by the Tallyman system.
 24. In January 2022, Westpac implemented a new control to perform weekly manual reconciliations between the Online Hardship Notices received by OneClick and those received by Tallyman. This manual control was performed by the OneClick and Tallyman support teams, who re-sent Online Hardship Notices not received by Tallyman.¹³
 25. In March 2022, a software fix was implemented to ensure that Online Hardship Notices that were submitted while the OneClick batch job was running, would not be marked as "sent" if they were not included in the file sent from OneClick.¹⁴
 26. On 2 July 2022, the control referred to in paragraph 24 was enhanced in that it became an automated daily reconciliation whereby, if an Online Hardship Notice was found to be missing in Tallyman, an email was sent to the support team. This control enhancement was recorded in a Service Now ticket¹⁵ on 21 June 2022.¹⁶

⁹ WFH.0011.0002.0002 at .0004.

¹⁰ WFH.0011.0002.0002 at .0004.

¹¹ WFH.0011.0002.0002 at .0004.

¹² WFH.0011.0002.0002 at .0004.

¹³ WFH.0011.0002.0002 at .0006.

¹⁴ WFH.0011.0002.0002 at .0011.

¹⁵ Ticket No. CHG0248651.

¹⁶ WOH.0001.0013.0001.

27. Westpac reported these deficiencies to ASIC in a breach report dated 3 March 2022, and provided subsequent breach report updates to ASIC on 31 March 2022, 29 April 2022, 24 May 2022, 27 May 2022, 5 July 2022, 2 December 2022, 23 March 2023, 19 June 2023, 27 July 2023 and 18 December 2023. The breach report and breach report updates are listed in **Annexure B**.
28. The first breach report update to System Failure A indicated that the breakdown of the Code breaches, based on the initial analysis as at 30 March 2022, within the Westpac group for the period from 2018 to 2021 for System Failure A were: 70% Westpac; 20% St George; 4% BankSA and 6% Bank of Melbourne.¹⁷

System Failure B¹⁸

29. System Failure B was detected after a customer contacted Westpac's Customer Assist team on 18 January 2023 to express disappointment that Westpac had not responded to their Online Hardship Notice submitted on 2 December 2022. The incident was first raised in JUNO on 24 January 2023.¹⁹
30. The root cause of System Failure B was an interruption caused by the daily batch process (Control M), described at paragraph 33 below.²⁰ This was a breakdown in step 3 of the 4 step process (referred to at paragraph 11 above).²¹ In step 3, certain Online Hardship Notices were not transferred from the central drive (the J Drive) to the 'J Drive Archive' folder on the J Drive for further processing to downstream collections systems TCS or B2K (via App105) due to a configuration error in the batch jobs.
31. The transfer of Online Hardship Notices from the J Drive to App105 involved a cycle of 5 steps (referred to as "jobs"). This sequence of jobs was triggered by Tallyman on receipt of a file containing Online Hardship Notices from OneClick in the 'J Drive'. The jobs are distinct functions but run in a sequential manner upon successful completion of the previous job. The jobs execute in a loop such that, at the end of Job 5, a new Job 1 commences.
32. Whilst these jobs worked correctly for most of the day, it was discovered that there was a period (between 1:45pm and 2:15pm) every day when the regular refresh of the batch job schedule resulted in duplicated job instances which, due to the configuration of these particular jobs, resulted in lost applications.
33. The 5 jobs involved in the transfer process from the 'J Drive' to downstream systems in the Online Hardship Process, Tallyman and App105, were:

¹⁷ WFH.0003.0001.0086 at .0098.

¹⁸ Incident No. INC000222363.

¹⁹ WFH.0003.0001.0339 at .0352.

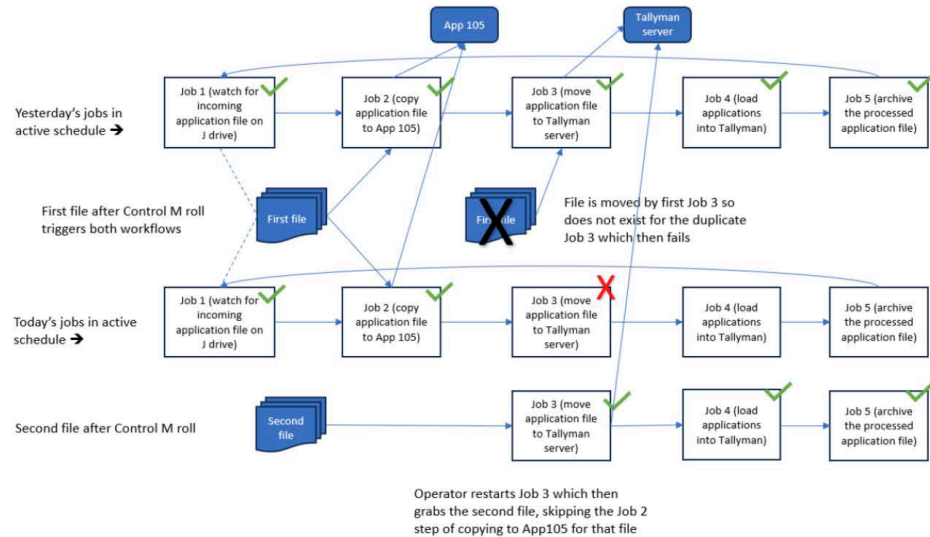
²⁰ WFH.0003.0001.0339 at .0352.

²¹ WFH.0003.0001.0448 at .0471.

- a. Job 1 (k9fw9900oh) – a 'file watcher' process which checked every few seconds for incoming files in the 'J Drive' 'Outbound' sub-folder containing Online Hardship Notices. Once the incoming file was received, it triggered Job 2.
 - b. Job 2 (k9w9900oh1) – a process which copied the files from the 'Outbound' J Drive sub-folder that received incoming files to a different 'J Drive' sub-folder (the 'Archive' folder) from where App105 could retrieve the files. In addition, there was an automatic 'file trigger' process which copied the files from the 'Archive' J Drive folder receiving incoming files to App105.
 - c. Job 3 (k9w9900oh2) – a process by which Tallyman moved the file from the J Drive 'Outbound' folder to the 'G Drive' on the Tallyman server, so that the file could be ingested into the Tallyman database.
 - d. Job 4 (k9w9900oh3) – a process that read the file that Job 3 moved to the 'G Drive' on the Tallyman server and, following validation of the data, placed the data into Tallyman tables, which allowed the Online Hardship Notice to be viewable in Tallyman.
 - e. Job 5 (k9w9900oh4) – a process which archived the processed file which had been loaded into Tallyman tables from the Tallyman 'G Drive' to the 'E Drive' on the Tallyman server, and then triggered Job 1 to start again.
34. From 2 October 2015, the 5 jobs described above were scheduled using a tool called 'Control M'. Every day, between 1:45pm and 2:15pm, Control M loaded the daily schedule of jobs. Due to the root cause of System Failure B, the next day the same set of 5 jobs were loaded again. As a result, there were two sets of the same 5 jobs waiting to process files. When a file was finally received, it incorrectly caused two sets of jobs for the same file to commence. The received file was then processed fully (i.e., Job 1 through to Job 5) by the first set of jobs. The second set of jobs also attempted to execute against this file but failed at Job 3 because the first set of jobs had already transmitted the processed data which was no longer present to be processed by Job 3 in the second set. Job 3 for the second set then sat in a failed state and in the meantime a new file had been picked up. Job 3 was then restarted by the support team, which processed the second file assuming that it was part of the very first file that it had been processing before it failed. This resulted in Jobs 1 and 2 being effectively skipped for that second file.
 35. As such, if the second file related to a credit product that could only be processed by App105, it would not have been transferred to App105 (by Job 2) for further downstream processing.
 36. The five-step batch job process is demonstrated by Figure 4.

Figure 4

5 Step workflow (batch jobs) duplicated when Control M schedule rolls



37. On 21 May 2023, a permanent fix was implemented to resolve the underlying issue of the duplicate Job 1 workflows. In addition, a continuous reconciliation was put in place between OneClick and App105²² to ensure that there were no missing Online Hardship Notices between the two systems. The underlying IT error was fixed and no further duplicate Job 1s have been detected by Westpac since 21 May 2023.
38. Westpac reported these deficiencies to ASIC in a breach report dated 5 April 2023, and provided subsequent breach report updates to ASIC on 5 May 2023, 1 June 2023, 28 July 2023, 9 October 2023 and 18 December 2023. The breach report and breach report updates are listed in **Annexure C**.

System Failure C²³

39. System Failure C was identified on 24 April 2023 by Westpac's Technology team. The incident was first raised in JUNO on 26 April 2023.
40. System Failure C was a technical error permitting customers to submit Online Hardship Notices without a valid Westpac or Other Westpac Brand account number, which applications were not processed downstream. System Failure C was a system breakdown in step 4 of the 4 step process (referred to at paragraph 11 above).²⁴

²² Control No. CTL000147718.

²³ Incident No. INC000230959.

²⁴ WFH.0003.0001.0448 at .0472.

41. System Failure C was caused by:²⁵
- a. a technical IT error that allowed customers to bypass a validation process on the user-facing OneClick online form that would have prevented customers from submitting an Online Hardship Notice without a Westpac (or Other Westpac Brand) account number in their application, or with no account number (Westpac or otherwise) supplied; and,
 - b. a gap in the Online Hardship Process whereby any Online Hardship Notice submitted without an account number would not be sent to B2K or TCS, nor appear on the App105 Reconciliation Report, or the App105 Exception Report (also known as the 'App105 CNX (Concentrix) Exception Report'), such that it was not actioned or processed by the Customer Assist team.
42. The OneClick online form for Online Hardship Notices performed a validation to confirm that at least one Westpac (or related brand) account number was supplied by the customer. However, the OneClick system only performed this validation once, at the time the customer first inputted the account number, and there was no further validation at the time when the customer submitted the form. As a consequence, it was possible for a customer to bypass the validation process, for example, where the customer initially completed the form, which was validated, and then subsequently modified their account details before they finally submitted the form.²⁶
43. If a customer submitted an Online Hardship Notice without a valid Westpac (or Other Westpac Brand) account number (but with some form of account number entered), then the following occurred:²⁷
- a. the Online Hardship Notice was received by App105;
 - b. App105 would perform validation of the account number and, if an invalid account number was submitted, it would appear on the App105 Exception Report; and
 - c. applications appearing on the App105 Exception Report would be provided to the Customer Assist team for manual actioning.
44. However, if a customer submitted an Online Hardship Notice without any account number (i.e., this field was left blank), then the following occurred:²⁸
- a. the Online Hardship Notice was received by App105;
 - b. App105 would not process the Online Hardship Notice or transfer it to B2K or TCS;
 - c. the Online Hardship Notice would not appear on the App105 Exception Report; and

²⁵ WFH.0022.0002.0004 at .0015 ([48]).

²⁶ WFH.0022.0002.0004 at .0015 ([49]).

²⁷ WFH.0022.0002.0004 at .0015–.0016 ([50]).

²⁸ WFH.0022.0002.0004 at .0016 ([51]).

- d. the Online Hardship Notice would not appear on the App105 Reconciliation Report.
45. As a result, any Online Hardship Notices that were submitted without an account number received after 2 October 2015 may not have been sent to the Customer Assist team for processing.²⁹
46. On 22 May 2023, Westpac implemented a continuous reconciliation between OneClick and App105 to ensure that there were no missing applications between the two systems, and, if there were, such application details were sent to the Customer Assist team so that the Online Hardship Notice could be processed (**OneClick to App105 Reconciliation Control**).³⁰
47. On 7 July 2023, a system fix was implemented to the Online Hardship form. This involved updating the validation process so that an Online Hardship Notice could no longer be submitted without a valid Westpac (or Other Westpac Brand) account number contained within it.³¹
48. Westpac reported these deficiencies to ASIC in a breach report dated 21 June 2023, and provided further breach report updates on 31 July 2023, 4 August 2023, 31 October 2023 and 20 December 2023. The breach report and breach report updates are listed in **Annexure D**.

System Failure D³²

49. System Failure D was first identified around 3 May 2023 as part of a wider thematic review (referred to at paragraph 110 below), following the identification of System Failure A. The incident was first raised in JUNO on 18 May 2023.³³
50. The root cause of System Failure D was the inability of downstream systems (Tallyman and App105) to load hardship applications where the data did not align with the expected data format.³⁴ This was a system breakdown at step 3 of the 4 step process (referred to at paragraph 11 above).³⁵
51. Westpac's Compliance Assessment³⁶ of System Failure D describes the root cause of that system failure as:

Data formatting/ validation errors, with inadequate system and integration testing and a lack of appropriate system controls/ monitoring to identify and action.

²⁹ WFH.0022.0002.0004 at .0016 ([52]).

³⁰ WFH.0022.0002.0004 at .0016 ([54]).

³¹ WFH.0022.0002.0004 at .0016 ([53]).

³² Incident No. INC000232212.

³³ WOH.0001.0121.0207 at .0213.

³⁴ WFH.0003.0001.0865 at .0887.

³⁵ WFH.0003.0001.0448 at .0472.

³⁶ WOH.0001.0123.0016 at .0016.

52. System Failure D related to Online Hardship Notices not being ingested into downstream systems (Tallyman and App105) for processing due to data formatting issues, which were caused by:
- a. an insufficient validation process in the OneClick online form for Online Hardship Notices which did not detect data that was not in a format suitable for ingestion into either Tallyman or App105; and,
 - b. an IT technical error which meant that any Online Hardship Notice submitted by a customer which contained data that was not in a format suitable for Tallyman or App105 would not load into Tallyman or App105.³⁷
53. For example, some of the data formatting issues included:³⁸
- a. where the date of birth field was populated with "01/01/0001", as a result of OneClick failing to retrieve an existing customer's date of birth from a back-end system, this resulted in the Online Hardship Notice not being loaded into Tallyman;
 - b. where a field requiring the customer to include a numerical amount was populated with either:
 - i. multiple decimal points (e.g., "274.291.64"); or,
 - ii. a single decimal point with no numerals (e.g., "."),
 this resulted in the Online Hardship Notice not loading into either Tallyman or App105;
 - c. where the "lump sum" field included a space between digits or numbers (e.g., "20 000"), this resulted in the Online Hardship Notice not loading into App105, while Tallyman was able to load the same Online Hardship Notice by ignoring the digits after the space; and,
 - d. where the account number was populated in the "How can we help" section of the OneClick online form, but not in the "What you owe" section of the online form, this resulted in the Online Hardship Notice not loading into App105, because App105 expected the account number to be in both sections of the Online Hardship Notice.
54. Where an Online Hardship Notice had one of the above data formatting issues, the Online Hardship Notice was not loaded into either App105, Tallyman, or both, for actioning.³⁹

³⁷ WFH.0022.0002.0004 at .0017 ([58]).

³⁸ WFH.0022.0002.0004 at .0017 ([59]).

³⁹ WFH.0022.0002.0004 at .0017 ([61]).

55. Most of the above data formatting issues were rectified after the following permanent software fixes were implemented into the OneClick online hardship form:⁴⁰
- a. the “date of birth” software issue was fixed on 23 October 2019;
 - b. the “multiple decimal point” software issue (described at paragraph 53.b.i above) was fixed on 11 May 2022;
 - c. the “lump sum” software issue was fixed on 7 June 2023; and
 - d. the “How can we help” / “What you owe” software issue was fixed on 7 June 2023.
56. In addition, the following controls were introduced to detect any further instances of these IT failures:⁴¹
- a. the OneClick to Tallyman Reconciliation Control introduced in manual form in January 2022 and updated to automatic form in July 2022;⁴² and,
 - b. the OneClick to App105 Reconciliation Control introduced in manual form in May 2023 and updated to automatic form in September 2023.
57. Westpac reported these deficiencies to ASIC in a breach report dated 21 June 2023, and provide further breach report updates on 20 July 2023, 30 August 2023 and 19 December 2023. The breach report and breach report updates are listed in **Annexure E**.

Operational Failure A⁴³

58. Operational Failure A was identified on 30 March 2023 as part of the wider thematic review (referred to at paragraph 110 below).⁴⁴ Operational Failure A was caused by a process failure in actioning accounts presented in the App105 Exception Report or the App105 Reconciliation Report.⁴⁵ It was a breakdown of operational processes in Step 4 of the above 4 step process (referred to at paragraph 11 above).
59. The underlying error for Operational Failure A was caused by the lack of any process or documentation for how the Online Hardship Notices referred to in paragraphs 62.b and 62.c below should be dealt with.
60. From 4 July 2016,⁴⁶ Job 2 of the transfer process from the J Drive to App105 involved an automatic file trigger to copy the files from the J Drive folder receiving incoming files to the App105 Access database, which automatically processed accounts and allocated them to B2K or TCS.⁴⁷

⁴⁰ WFH.0022.0002.0004 at .0017 ([62]).

⁴¹ WFH.0022.0002.0004 at .0018 ([63]).

⁴² Control No. CTL000136705.

⁴³ Incident No. INC000228842.

⁴⁴ WOH.0001.0121.0155 at .0115.

⁴⁵ WFH.0022.0002.0004 at .0014 ([37]).

⁴⁶ WFH.0022.0002.0004 at .0014 ([42]).

⁴⁷ WFH.0022.0002.0004 at .0014 ([38]).

61. Every Monday to Saturday, App105 generated a reconciliation report which captured any Online Hardship Notice that failed to transfer into B2K, TCS or accounts that had not been placed on the App105 Exception Report. That is, the reconciliation report captured all Online Hardship Notices which required manual processing by the Customer Assist team.
62. The App105 Reconciliation Report included four sections that required manual intervention:
 - a. Previous day's summary – this section showed a summary of the online hardship applications that were received the previous day;
 - b. Applications missed – this section covered applications that were received through OneClick but which were not loaded into the App105 database;
 - c. Applications and accounts not in watchlist – this section covered applications and accounts that were not automatically processed to B2K or TCS and did not appear in the App105 Exception Report; and
 - d. Tallyman exceptions – this section covered accounts that were not in B2K or TCS (because Tallyman processes those accounts).
63. On a daily basis, a Westpac Systems team was required to send the information on all four sections of the App105 Reconciliation Report to the relevant teams to manually flag the relevant collections systems for the customer's Online Hardship Notice to be actioned.
64. Westpac identified that between 4 July 2016 and 5 April 2023, the relevant Systems team did not send applications that appeared on two sections of the App105 Reconciliation Report referred to in paragraphs 62.b and 62.c above to the relevant team for manual flagging of the accounts. This resulted in either a delay in providing a hardship response to these customers, or no response being provided at all.
65. The underlying error which caused Operational Failure A was rectified through the implementation of the following measures:⁴⁸
 - a. on 20 April 2023, process documentation for the manual processing of Online Hardship Notices in the App105 Reconciliation Report was updated to record how those applications should be processed or addressed. In addition, training was provided to the relevant team following this process, and management were given greater visibility over the process; and,
 - b. on 15 May 2023, manual reconciliation processes were added to the Customer Assist team's daily workflow allocation dashboard, along with other critical system health check processes and effectiveness tests.

⁴⁸ WFH.0022.0002.0004 at .0014–.0015 ([44]).

66. Westpac reported these deficiencies to ASIC in a breach report dated 18 May 2023, and provided further breach report updates on 31 July 2023, 31 October 2023 and 20 December 2023. The breach report and breach report updates are listed in **Annexure F**.

Operational Failure B⁴⁹

67. Operational Failure B related to the interim manual controls put in place as part of the rectification activities for System Failure A. The failure was first discovered on 15 May 2023.⁵⁰ It was a breakdown of the operational processes in Step 4 of the 4 step process referred to at paragraph 11 above.
68. Operational Failure B related to Online Hardship Notices that were successfully transferred from the host system (OneClick) to downstream systems within the Online Hardship Process (Tallyman and App105) via the J Drive, but some impacted Online Hardship Notices were not responded to within the timeframes required under sub-sections 72(4)-(5) of the Code. This was caused by a delay in re-sending from OneClick to the J Drive any Online Hardship Notices that were identified by the OneClick to Tallyman Reconciliation Control introduced in January 2022.⁵¹
69. This process involved Westpac's Technology team manually conducting a reconciliation on a weekly basis between Online Hardship Notices lodged in the OneClick system and those received by the Tallyman system. Any Online Hardship Notices identified as exceptions by this reconciliation process were then re-sent from OneClick to the J Drive, and then, in turn, to further systems downstream in the Online Hardship Process used by the Customer Assist team to process Online Hardship Notices.⁵²
70. The process to re-send missed Online Hardship Notices required Westpac's Technology team to create a database script, and then follow Westpac's technology change process to schedule a change. In some circumstances, Online Hardship Notices were not received by the Customer Assist team until 15 days after they were originally submitted by an impacted customer.⁵³
71. While the reconciliation process was effective in identifying any further Online Hardship Notices impacted by the IT error underlying System Failure A, because the reconciliation process was conducted on a weekly basis, it resulted in some delays in re-sending impacted Online Hardship Notices from OneClick, and, therefore, some delays in the Customer Assist team receiving some impacted Online Hardship Notices.⁵⁴

⁴⁹ Incident No. INC000234409.

⁵⁰ WFH.0003.0001.0552 at .0556.

⁵¹ WFH.0022.0002.0004 at .0018 ([68]).

⁵² WFH.0022.0002.0004 at .0018 ([70]).

⁵³ WFH.0022.0002.0004 at .0018–.0019 ([71]).

⁵⁴ WFH.0022.0002.0004 at .0019 ([72]).

72. The underlying system errors (System Failure A) were fixed on 30 March 2022 and on 2 July 2022, the manual weekly reconciliation was replaced by a daily automated reconciliation control.
73. Westpac reported these deficiencies to ASIC in a breach report dated 21 June 2023, and provided further breach report updates on 27 October 2023 and 19 December 2023. The breach report and breach report updates are listed in **Annexure G**.

Operational Failure C⁵⁵

74. Operational Failure C was identified on 17 November 2022 by a Westpac employee whilst completing account reviews for System Failure A.⁵⁶ Operational Failure C related to Online Hardship Notices that were successfully sent to Westpac's Customer Assist team via the Online Hardship Process, but some of which were not actioned by the Customer Assist team within the timeframes required under sub-sections 72(4)-(5) of the Code.
75. Operational Failure C was caused by:
- a. a number of individual human errors concerning how an Online Hardship Notice was handled or processed by the Customer Assist team; and
 - b. operational process design deficiencies.
76. Operational Failure C was not caused by any IT errors or deficiencies in Westpac's technology enablement systems or processes.

Human error

77. Westpac reported the following human errors by the Customer Assist team as forming the root causes underlying Operational Failure C:
- a. incorrectly removing hardship account flags, resulting in delays in processing applications or no response being sent to applications;
 - b. requesting further information from the customer more than once, resulting in delays in processing and assessing hardship applications;
 - c. modifying existing hardship arrangements in response to new hardship applications, but failing to follow the applicable process to request and issue a new outcome letter to the customer;
 - d. incorrectly withdrawing applications in circumstances where a conversation with the customer was required, but no such conversation had taken place, resulting in no response being provided to impacted customers;

⁵⁵ Incident No. INC000216858.

⁵⁶ WFH.0003.0001.0246 at .0254.

- e. failing to follow the process for correctly loading the hardship application and/or hardship solution on the customer's account, resulting in delay in issuing the hardship response, or not issuing one at all;
- f. failing to follow the process by incorrectly declining hardship assistance in circumstances where:
 - i. no contact was made with the customer but their statement of financial position was in surplus;
 - ii. no contact could be made with the customer on the day the application was submitted, but the assistance was declined on the same day when further attempts should have been made to contact the customer before the expiry of the timeframe provided in the Code; and
 - iii. the customer's request for no phone contact was not considered before the hardship assistance was declined because the customer could not be contacted to obtain further information.
- g. failing to schedule activities relating to the hardship response process correctly, resulting in delayed outcomes; and
- h. errors or delays in completing manual activities, which in some cases, may have resulted in delays in processing and assessing hardship applications.

Operational process design deficiency

78. In addition, Westpac identified that operational process design deficiencies led to the following failures, which are other root causes underlying Operational Failure C:
- a. failure to correctly process a new hardship application where the customer's account was already subject to a hardship arrangement, which led to no response being provided to the new application;
 - b. failure to correctly process applications when the customer submitted one application where they were the borrower and also submitted another hardship application where they were one of two borrowers, resulting in a response only being provided to one of the two applications received; and
 - c. failure to respond to hardship applications submitted by customers who also made a complaint to Westpac within prescribed timeframes, or at all. When a customer made a complaint and that was recorded in Westpac's systems, the customer's relevant account was segregated to prevent any collections activities while the complaint was being resolved. This segregation interrupted the hardship workflows which meant that

impacted Online Hardship Notices were not sent to the systems used by the Customer Assist team for processing hardship applications.

79. Westpac reported these deficiencies to ASIC in a breach report on 11 January 2023, and provided further breach report updates on 17 February 2023, 16 March 2023, 14 April 2023, 12 May 2023, 9 June 2023, two reports on 6 July 2023, 1 August 2023, 29 August 2023, 27 September 2023, 27 October 2023 and 20 December 2023. The breach report and breach report updates are listed in **Annexure H**.

F. NOTICE OF ONLINE HARDSHIP SYSTEMS ISSUES

IT Tickets and Similar Incidents

2018

80. On 28 November 2018, a customer contacted Westpac advising that he had not received a response to his Online Hardship Notice made on 17 November 2018.⁵⁷
81. Following receipt of the email dated 28 November 2018, Westpac responded to the hardship notice within the prescribed timeframes and a Customer Assist staff member raised a concern with another staff member that a customer had not received a response to their Online Hardship Notice.
82. On 4 December 2018, the Customer Assist staff member sent an email which said:⁵⁸
- Thought I should bring this one to your attention.*
- Application received 17/11/18, but it never auto-noted or gave us an exception etc.*
- No rhyme or reason as to why the internet app was never received by us.*
- Thanks!*
83. As a result of the inquiry made by the Customer Assist staff member on 4 December 2018, between 5 to 11 December 2018, a Westpac Senior Application Developer, a Customer Assist Team Leader and a Risk and Compliance Manager (1st Line) exchanged a series of emails about the missing hardship application of 17 November 2018, referred to in paragraph 80 above, which stated:⁵⁹

Senior Application Developer: "I'm also very surprised that the OH rec that systems health and governance run didn't pick this up....I'm not sure why that was never reported to our team/ me to fix as we would've/should've picked this up when the rec was run the day after."

⁵⁷ WFH.0011.0001.0003 at .0011.

⁵⁸ WOH.0001.0001.0671.

⁵⁹ WOH.0001.0001.0765.

...

Team Leader: *"I can confirm that there has been no NCC breaches. Next steps is to ensure there are adequate controls in place to avoid this happening in the future. I have loaded deltas previously regarding similar issues."*

...

Risk and Compliance Manager (1st Line): *"Can we look into reporting to see about implementing something that will identify when online requests do not flow through [sic] to us?"*

...

The Manager for System Health Governance and Testing, Customer Assist, was asked: *"how can you ensure that this issue doesn't occur again?"*

84. On 5 December 2018, following the customer contact referred to in paragraph 80 above, an incident was raised in JUNO concerning 14 Online Hardship Notices submitted on 27 November 2018 that did not appear in the Customer Assist queues for processing. Following investigation, Westpac discovered the error was between Tallyman and Customer Assist queues.⁶⁰ Westpac also reviewed all 14 Online Hardship Notices and considered that there were no contraventions arising from these missed Online Hardship Notices.
85. On 30 April 2019, four months later, the Manager for System Health and Governance Testing, Customer Assist, forwarded that email chain and said:⁶¹

Another potential item to include on Health Check Enhancement.

2020

86. In 2020 and 2021, further IT tickets were raised about Online Hardship Notices not being received by Tallyman. These were actioned individually, and incidents were not raised in JUNO.⁶²
87. Service Now tickets were raised regarding missed Online Hardship Notices on 8 October 2020, 7 January 2021, 22 February 2021, 17 January 2022, 18 January 2022 and 19 January 2022.⁶³
88. On 14 September 2020, a customer contacted the Customer Assist team by email to ask for an update on an Online Hardship Notice submitted on 7 September 2020. On 14 September 2020, a Customer Assist staff member raised a concern with another staff

⁶⁰ WFH.0011.0001.0003 at .0011.

⁶¹ WOH.0001.0001.0765.

⁶² WFH.0011.0001.0003 at .0004.

⁶³ WOH.0001.0013.0001.

member that Westpac's systems had not received a customer's Online Hardship Notice submitted on 7 September 2020. The email stated:⁶⁴

Can we please raise this as a delta, the below email shows us as receiving bwrs online application. However upon checking, we have no application in our system at all.

Need to know why if successful and customer received an email, why we didn't receive application.

89. Westpac's Customer Assist team identified that, although the customer had received an email confirmation with an application number, the application was not appearing in Tallyman.⁶⁵ While an IT ticket was raised, the incident was not logged in JUNO at this time.⁶⁶
90. As a result of the IT ticket raised, the OneClick Level 2 support team investigated the matter and found that there was an error in the WinSCP component used by OneClick to send files to Tallyman (via the J Drive) which could have been caused by a network issue when OneClick was attempting to send the file.⁶⁷
91. On 9 October 2020, the OneClick Level 2 support team resolved the issue with a manual production change by triggering OneClick to re-send the missing Online Hardship Notice to the OneClick database so that it was received by Tallyman.⁶⁸
92. On 7 January 2021, a Service Now ticket was raised to engage the OneClick Level 3 support team to design a permanent fix. The Service Now ticket stated:⁶⁹

While doing file transfer(SFTP), sometimes we experience winscp exception and files are not sent to Tallyman. So in this case the Batch_status should not be updated as 'sent' and those applications should be re-sent in next batch run.

But currently we've observed, even in case of ftp failure the batch status is updated as 'sent' and hence those applications are getting marked as sent but we're not actually sending those applications.

So these applications are getting lost and unprocessed.

93. Inquiries by the OneClick Level 3 support team ultimately found that the batch job that transferred the data from OneClick to Tallyman (via the J Drive) did not automatically recover if there was a failure during the file transfer because the batch job was designed to change the status of all applications from "submitted" to "sent" prior to a successful transfer,

⁶⁴ WOH.0001.0001.1147.

⁶⁵ WFH.0011.0002.0002 at .0004.

⁶⁶ WFH.0011.0002.0002 at .0005.

⁶⁷ WFH.0011.0002.0002 at .0005.

⁶⁸ WFH.0011.0002.0002 at .0005.

⁶⁹ WOH.0001.0001.0037 at .0037.

meaning if the transfer failed, the files were not re-sent because they were already marked as having been sent.⁷⁰

94. In February 2021, the OneClick support team implemented a system fix to automatically re-send Online Hardship Notices if there was a failure in the file transfer.⁷¹ However, that fix did not properly detect all types of file transfer failures,⁷² and the incident arose again in January 2022.⁷³

Identification in 2022

95. On 10 January 2022, a member of the Customer Assist team spoke with a customer who called Westpac following up about their Online Hardship Notice submitted on 4 January 2022.⁷⁴
96. After the member of the Customer Assist team could not locate the customer's hardship application, the customer forwarded to the Customer Assist team member the confirmation email received by the customer with the Application ID. The customer ultimately submitted a further Online Hardship Notice on 11 January 2022, which was approved on 12 January 2022.
97. On 11 January 2022, following the customer's inquiry referred to in paragraph 95 above, the Tallyman support team raised a Service Now incident and assigned it to the OneClick support team to review why Tallyman had not received the Online Hardship Notice submitted by the customer.⁷⁵
98. On 18 January 2022, the OneClick Level 2 support team scheduled a 'production change' to ensure that OneClick would re-send the customer's hardship application to Tallyman, so that it could be processed by the Customer Assist team.⁷⁶
99. On 17 January 2022, Westpac continued to investigate the cause of the missed Online Hardship Notice referred to in paragraph 95 above. A Service Now problem ticket⁷⁷ was raised by the OneClick support team to review why the problem was still occurring despite the fix to OneClick in February 2021.⁷⁸
100. On 18 January 2022, a member of the Customer Assist team raised whether the incident was a "one off" or whether there may be a situation "*where multiple applications could have*

⁷⁰ WFH.0011.0002.0002 at .0005.

⁷¹ WFH.0011.0002.0002 at .0005.

⁷² WFH.0011.0001.0003 at .0006.

⁷³ WFH.0011.0001.0003 at .0010.

⁷⁴ WFH.0011.0002.0002 at .0005.

⁷⁵ WFH.0011.0001.0003 at .0006.

⁷⁶ WOH.0007.0001.0870 and WOH.0001.0010.0001.

⁷⁷ Ticket No. PRB067629.

⁷⁸ WFH.0011.0001.0003 at .0006.

*been lost*⁷⁹ which resulted in investigations as to whether there were other Online Hardship Notices not being received by Tallyman.⁷⁹

101. On 19 January 2022, a Service Now ticket was raised which stated:⁸⁰

This is similar issue; which was identified and fixed under PRB0047855 [being the service now ticket referred to at paragraph 92 above]. However we're still observing issue (sic) with this batch job...

This has the Highest priority; as all these application are to assist the Customers who are in financial hardship. And as a bank; there are strict SLAs that needs to be followed to help these Customers.

102. By 24 January 2022, the investigations undertaken identified several instances where Tallyman had not received an Online Hardship Notice. These instances were found by comparing a list of Application IDs submitted in OneClick against Application IDs that appeared in Tallyman. Members of the various teams exchanged emails about raising a JUNO incident as part of Westpac's incident management processes.⁸¹

103. On 31 January 2022, an incident was raised in JUNO⁸² and investigations commenced to identify the extent of customers impacted.

104. On 16 February 2022, initial analysis identified that the problem could have occurred since the addition of OneClick to the Online Hardship Process in 2015.⁸³

105. On 9 March 2022, a system fix was made by the OneClick support team in an attempt to detect all file transfer failures. However, a manual weekly reconciliation identified that there were new instances of Tallyman not receiving financial hardship forms and a new Service Now problem ticket was raised.⁸⁴

106. On 30 March 2022, a system fix was implemented to ensure that any online hardship applications that were submitted while the OneClick batch job was running would not be marked "sent" if they were not included in the file sent from OneClick.

Management awareness of the online hardship issues

107. On 9 February 2022, the Chief Operating Office Breach Reporting Pipeline Meeting received a high-level update on the 2022 JUNO incident (referred to at paragraph 103 above).

⁷⁹ WFH.0011.0002.0002 at .0006.

⁸⁰ WOH.0001.0001.0040 at .0040.

⁸¹ WFH.0011.0002.0002 at .0006.

⁸² Incident No. INC000190597.

⁸³ WOH.0001.0022.0163 at .0165.

⁸⁴ WFH.0011.0001.0003 at .0007.

108. The issue concerning System Failure A formed part of an "Incidents" report and papers for a Consumer and Business Banking Risk Governance Forum held on 16 February 2022 attended by the Divisional Chief Information Officer⁸⁵ and the Head of Customer Digital Technology.⁸⁶
109. The matter was thereafter escalated within Westpac resulting in the initial incident being reported to ASIC on 3 March 2022.

Breach report to ASIC dated 7 June 2023

110. In a breach report submitted to ASIC on 7 June 2023,⁸⁷ Westpac stated that it had commenced from April 2023 a "*broader [thematic] review*" of the Online Hardship Process. In an update to that breach report submitted to ASIC on 1 September 2023,⁸⁸ Westpac stated that the review had identified four key areas for improvement in processing and technology. In particular, it noted the "*control weaknesses in the end-to-end online hardship process*", and that the "*current technology platforms used for online hardship are not designed or managed as an integrated suite of applications supporting a critical business process*" and that there "*are inconsistent and inefficient processes that increase risk in the management of online hardship applications submitted by our customers.*"

Audit report dated 16 June 2023⁸⁹

111. A Westpac Group Audit report titled 'Collections and Hardship Risk Management' (2023 Audit Report) was created during 2023 in the context of "*sustained high inflation*" which Westpac anticipated would cause its customers to have "*varied affordability pressures, requiring tailored solutions*". The testing period for the 2023 Audit Report was 1 January 2022 to 31 March 2023. The 2023 Audit Report stated, among other things:
- a. *Audit's review of hardship files and calls did not identify any issues over the outcomes received by customers. Further, Assist started preparing for increased hardship volumes from mid-2022, with some initiatives completed or underway (e.g., increase of Assist capacity, policy simplification) ... LoB's [Lines of Business] have also begun contacting some high-risk pre-delinquent customers to offer support and are improving front line training to identify hardship.*
 - b. *Online customer hardship requests are not always sent to collection systems for [Customer] Assist to action; resulting in either a delay in the outcome provided to customers, or no outcome being provided. The rectification actions relating to the initial online breach were resolved by CST [Customer Services and Technology] and*

⁸⁵ WFH.0011.0002.0002 at .0004.

⁸⁶ WFH.0011.0002.0002 at .0006.

⁸⁷ WOH.0001.0093.0019.

⁸⁸ WOH.0001.0129.0001.

⁸⁹ WFH.0003.0002.0004

validated by Group Audit. However, as of 15 June 2023, a further five new reportable breaches related to technology deficiencies in other parts of the online hardship process have been identified and reported to ASIC.

- c. *Noting human error is a common root cause for most of the 339 reported breaches, there are other control weaknesses (e.g., over monitoring of the Assist group inbox, not responding to customer hardship requests in timeframes prescribed in NCC s72) that result in non-compliance with NCC requirements.*
- d. *Additionally, nine CST and CBB [Consumer and Business Banking] management identified medium issues are in 'planning and scoping' for more >100 days, from which two are >300 days. It is noted that some of these issue actions are closed, and Management have provided reasons for the delays (e.g., strategic technology investment still required to fix the multi-brand complexity, credible path to fix root causes still being identified). Tactical fixes for two of these issues are implemented with Assist representing that tactical fixes for a further two are in-flight.*
- e. *Further improvements are needed when fixing the root causes of incidents and systemic issues raised. This is most evident when assessing the series of OneClick incidents and the fact that CBB Technology did not identify the siloed nature of their risk and root cause assessments (e.g., not checking end-to-end reconciliation) or related remediation work performed until recent customer complaints highlighted further incidents...*
- f. *Risk Management Maturity is rated Developing.*
- g. *[E]nd to end control gap identified between hardship applications lodged within One Click and the application being correctly flagged in core collection systems. Audit comment: Issue relates to gaps in the online hardship process related to various incidents identified between OneClick, Tallyman, and App105. The issue includes a full reconciliation at the application level going back to 2015 (when OneClick was first introduced), reconciliation at the account level by collection system (where possible), and an end-to-end review of the process from a system perspective.*
- h. *Hardship applications submitted through OneClick did not transmit to Tallyman. Audit comment: This issue was raised from the first online Hardship incident. It was identified that no reconciliation between OneClick and Tallyman was in place. This root cause was addressed through a targeted fix.*
- i. *Group Audit's review of the online channel integrity and list of existing incidents confirmed Management's own understanding, in that, control weaknesses exist over transfer of hardship requests submitted online (via OneClick) to what is recorded in the relevant collection systems (i.e., Tallyman ...). Multiple historical incidents and*

application reconciliation control gaps and weaknesses have been raised by Management to date over deficiencies in the online hardship process.

- j. *Root cause assessments conducted by Technology management highlight that the deficiencies relate to targeted application/ data flow reconciliation gaps that only take place under specific conditions. However, when these deficiencies do take place, it impact (sic) the transmission of some online hardship applications (from OneClick) to the collection systems, resulting in some applications not being assessed and there being either a delay in the assessment outcome provided to customers, or no outcome provided.*

112. The 2023 Audit Report also noted that *“Westpac does not have a consolidated system view of customers for collections and hardship and inadequate progress in business (and technology) simplification of the multi-brand, multi-systems legacy environment due to years of under investment.”*

113. Further, the 2023 Audit Report noted that *“Westpac has a complex, multi-system environment, encompassing 5 collections platforms and 88 UDAs...[t]his complexity has contributed towards recent issues, including ... hardship applications going missing or not being sent from OneClick to Tallyman.”*

Breach reports to ASIC in August 2023⁹⁰ and October 2023⁹¹

114. In a breach report submitted to ASIC on 3 August 2023, Westpac stated that senior leadership were committed to the funding of recommended findings to address deficiencies in the current capability which would be assessed in line with the ‘Collections Technology Roadmap’.

115. Further, in a breach report submitted to ASIC on 27 October 2023, Westpac stated it would be *“re-assessing software applications involved in the Online Hardship Process for criticality, availability, and reliability ratings by end November 2023”, “to ensure that all relevant software applications are identified as supporting a Critical Business process with regulatory requirements and timelines”.*⁹²

REMIEDIATION BY WESTPAC

116. Westpac has acknowledged that the time taken to identify the issues with its Online Hardship Process, and the customers impacted as a consequence, is disappointing.⁹³

⁹⁰ WFH.0003.0001.0795.

⁹¹ WFH.0003.0001.1156.

⁹² WFH.0003.0001.1156 at 1180.

⁹³ WFH.0003.0001.0795 at .0816.

Westpac publicly stated that it is deeply sorry for not providing some of its customers with the help they needed.⁹⁴

117. Westpac has issued remediation payments to all of the customers impacted by the system and operational failures the subject of this proceeding.
118. By 30 June 2023, Westpac had issued all remediation payments to customers impacted by System Failure A, with minor residual activities remaining, e.g., charity payments where customers were unable to be contacted.
119. By 13 December 2023, Westpac had issued all remediation payments to customers impacted by System Failures B, C and D, and Operational Failures A, B and C, with minor residual activities remaining, such as customer contact and charity payments.
120. Westpac's remediation of those customers included:⁹⁵
 - a. calling and/or writing to impacted customers to apologise for missing their Online Hardship Notice, and to ask whether they still required hardship assistance from Westpac;⁹⁶
 - b. making remediation payments to impacted customers. As at 13 December 2023, a total of \$1,735,126.81 has been paid in remediation, of which \$1,439,526.11 was remediation for refunds of fees, interest and time value of money, while \$295,600.70 was for additional non-financial loss;⁹⁷ and,
 - c. correcting repayment history information and default listings recorded on impacted customer's credit files.⁹⁸
121. There is also loss and harm that has not been, or cannot be, remediated by Westpac. For example, it is not possible to remove default listings already expunged by law or listings on the National Personal Insolvency Index with retrospective effect.

G. DEALINGS BETWEEN ASIC AND WESTPAC REGARDING THE CONDUCT

136. Westpac has co-operated with and voluntarily assisted ASIC during its investigation. This has included:
 - a. responding to requests for voluntary information; and
 - b. participating in voluntary meetings with ASIC.

⁹⁴ WOH.7000.0006.0325.

⁹⁵ WOH.5000.0001.0068 at .0072 – .0074.

⁹⁶ WOH.5000.0001.0068 at .0072 ([16(c)]).

⁹⁷ WOH.5000.0001.0068 at .0072 – .0074, WOH.7000.0020.0001, WOH.7000.0023.0001, WOH.7000.0021.0019, WOH.7000.0021.0066, WOH.7000.0021.0087, WOH.7000.0021.0039, WOH.7000.0021.0120 and WOH.7000.0021.0001.

⁹⁸ WOH.5000.0001.0068 ([17]).

H. BACKGROUND, SIZE AND CIRCUMSTANCES OF WESTPAC

137. Westpac is an Australian banking organisation. It is one of four major banking organisations in Australia and one of the largest banks in New Zealand. Westpac provides a broad range of consumer, business and institutional banking and wealth management services through a portfolio of financial services brands and businesses. It has been in business in Australia since 1817.

138. In the 2023 Financial Year, being the last financial year that falls within the Agreed Contravening Period, Westpac:

- a. had approximately 13 million customers;⁹⁹
- b. had approximately 36,146 employees;¹⁰⁰ and
- c. recorded \$21,645 million in revenue,¹⁰¹ and its net profit after tax (NPAT) was \$7,195 million.¹⁰²

139. Figure 5 outlines Westpac's revenue and NPAT throughout the Agreed Contravening Period.

Figure 5

FY	Revenue (\$m)	NPAT (\$m)
17	21,802 ¹⁰³	7,990 ¹⁰⁴
18	22,133 ¹⁰⁵	8,095 ¹⁰⁶
19	20,649 ¹⁰⁷	6,784 ¹⁰⁸
20	20,183 ¹⁰⁹	2,290 ¹¹⁰
21	21,222 ¹¹¹	5,458 ¹¹²
22	19,606 ¹¹³	5,694 ¹¹⁴
23	21,645 ¹¹⁵	7,195 ¹¹⁶

⁹⁹ WOH.7000.0022.0473 at .0507.

¹⁰⁰ WOH.7000.0022.0473, page 35.

¹⁰¹ WOH.7000.0022.0473, page 5

¹⁰² WOH.7000.0022.0473, page 5

¹⁰³ WOH.7000.0022.0001.

¹⁰⁴ WOH.7000.0022.0001.

¹⁰⁵ WOH.7000.0022.0140.

¹⁰⁶ WOH.7000.0022.0140.

¹⁰⁷ WOH.7000.0022.0288.

¹⁰⁸ WOH.7000.0022.0288.

¹⁰⁹ WOH.7000.0022.0444.

¹¹⁰ WOH.7000.0022.0444.

¹¹¹ WOH.7000.0022.0471.

¹¹² WOH.7000.0022.0471.

¹¹³ WOH.7000.0022.0472.

¹¹⁴ WOH.7000.0022.0472.

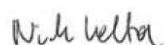
¹¹⁵ WOH.7000.0022.0473 at .0477.

¹¹⁶ WOH.7000.0022.0473 at .0477.

OTHER FACTUAL MATTERS RELEVANT TO PENALTY

Prior conduct

140. Westpac has been found to have contravened civil penalty provisions contained in the ASIC Act and the Corporations Act.
141. Westpac has not been found to have contravened a civil penalty provision under the Credit Act or the Code.



Signed by Nick Kelton
Lawyer for the Applicant
Date: 28 February 2024



Signed by Jonathan Slater
Lawyer for the Respondent
Date: 28 February 2024

Annexure A : Total Affected Notice Customer Schedule

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹¹⁷
Customer 1	Customer 1	WOH.0001.0025.0075 ¹¹⁸	16/05/2018 11:57:20	6/06/2018 11:57:20	Unknown – Westpac did not find a response	Bank SA	Personal Loan	BankSA Personal Loan General Terms and Conditions WOH.0001.0042.0022
Customer 2	Customer 2	WOH.0001.0025.0076	21/05/2019 10:15:06	11/06/2019 10:15:06	Unknown – Westpac did not find a response	Bank SA	Home Loan	BankSA Residential Loan Agreement General Terms and Conditions WOH.0001.0031.0009
Customer 3	Customer 3	WOH.0001.0025.0077	22/08/2019 11:45:05	12/09/2019 11:45:05	Unknown – Westpac did not find a response	Bank SA Bank SA Bank SA	Personal Loan Personal Loan Personal Loan	BankSA Personal Loan General Terms and Conditions BankSA Personal Loan General Terms and Conditions BankSA Personal Loan General Terms and Conditions WOH.0001.0035.0043 WOH.0001.0035.0059 WOH.0001.0035.0075
Customer 4	Customer 4	WOH.0001.0025.0078	13/12/2019 17:06:14	3/01/2020 17:06:14	Unknown – Westpac did not find a response	Bank SA	Home Loan	BankSA Residential Loan Agreement General Terms and Conditions BankSA Advantage Package General Terms and Conditions WOH.0001.0031.0035
Customer 5	Customer 5	WOH.0001.0025.0079	3/01/2020 11:55:11	24/01/2020 11:55:11	Unknown – Westpac did not find a response	Bank SA	Home Loan	BankSA Residential Loan Agreement General Terms and Conditions WOH.0001.0031.0126
Customer 6	Customer 6	WOH.0001.0025.0080	17/02/2020 14:10:52	9/03/2020 14:10:52	Unknown – Westpac did not find a response	Bank SA	Personal Loan	BankSA Personal Loan General Terms and Conditions WOH.0001.0035.0091
Customer 7	Customer 7	WOH.0001.0025.0081	1/02/2021 12:45:04	22/02/2021 12:45:04	Unknown – Westpac did not find a response	Bank SA	Credit Card	BankSA Credit Card Conditions of Use WOH.0001.0046.0045
Customer 8	Customer 8	WOH.0001.0025.0084	10/09/2021 14:41:38	1/10/2021 14:41:38	Unknown – Westpac did not find a response	Bank SA	Personal Loan	BankSA Personal Loan General Terms and Conditions WOH.0001.0035.0080
Customer 9	Customer 9	WOH.0001.0025.0100	14/06/2019 14:41:55	5/07/2019 14:41:55	Unknown – Westpac did not find a response	Bank of Melbourne	Personal Loan	BoM Personal Loan General Terms and Conditions WOH.0001.0035.0025
Customer 10	Customer 10	WOH.0001.0025.0102	19/09/2019 10:21:09	10/10/2019 10:21:09	Unknown – Westpac did not find a response	Bank of Melbourne	Home Loan	BoM Residential Loan Agreement General Terms and Conditions BoM Advantage Package Terms and Conditions WOH.0001.0031.0051
Customer 11	Customer 11	WOH.0001.0025.0106	17/02/2020 14:27:42	9/03/2020 14:27:42	Unknown – Westpac did not find a response	Bank of Melbourne Bank of Melbourne	Credit Card Personal Loan	Unknown – Westpac could not locate credit contract BoM Personal Loan General Terms and Conditions WOH.0001.0040.0077
Customer 12	Customer 12	WOH.0001.0025.0107	20/03/2020 13:30:06	10/04/2020 13:30:06	Unknown – Westpac did not find a response	Bank of Melbourne	Home Loan	BoM Residential Loan Agreement General Terms and Conditions WOH.0001.0031.0135
Customer 13	Customer 13	WOH.0001.0025.0108	28/03/2020 16:45:34	18/04/2020 16:45:34	Unknown – Westpac did not find a response	Bank of Melbourne	Personal Loan	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
Customer 14	Customer 14	WOH.0001.0025.0109	22/05/2020 10:41:50	12/06/2020 10:41:50	Unknown – Westpac did not find a response	Bank of Melbourne Bank of Melbourne	Credit Card Credit Card	BoM Credit Card Conditions of Use BoM Credit Card Conditions of Use WOH.0001.0046.0081 WOH.0001.0046.0029

¹¹⁷ For Customers 1 to 164, the 'details' are the Terms and Conditions for the credit product(s); for Customers 165 to 288, the 'details' are a description of the credit product(s).

¹¹⁸ Customers 1 to 97 are affected customers to whom Westpac was required to provide a response to their online hardship notice application impacted by System Failure A after 4 September 2017, but to whom Westpac never gave a response.

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷	
Customer 15	Customer 15	WOH.0001.0025.0113	23/07/2021 16:55:07	13/08/2021 16:55:07	Unknown – Westpac did not find a response	Bank of Melbourne	Home Loan	BoM Residential Loan Agreement General Terms and Conditions	WOH.0001.0035.0369
						Bank of Melbourne	Home Loan	BoM Advantage Package Terms and Conditions BoM Residential Loan Agreement General Terms and Conditions	WOH.0001.0035.0369
						Bank of Melbourne	Home Loan	BoM Advantage Package Terms and Conditions BoM Residential Loan Agreement General Terms and Conditions	WOH.0001.0035.0376
Customer 16	Customer 16	WOH.0001.0025.0115	12/09/2021 9:00:09	3/10/2021 9:00:09	Unknown – Westpac did not find a response	Bank of Melbourne	Home Loan	BoM Residential Loan Agreement General Terms and Conditions	WOH.0001.0035.0392
Customer 17	Customer 17	WOH.0001.0025.0141	23/10/2017 12:40:34	13/11/2017 12:40:34	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0035.0104
Customer 18	Customer 18	WOH.0001.0025.0143	20/11/2017 19:53:45	11/12/2017 19:53:45	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0316
						St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions	WOH.0001.0035.0508
Customer 19	Customer 20	WOH.0001.0025.0167	25/01/2018 15:00:36	15/02/2018 15:00:36	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Advantage Package Terms and Conditions SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0123
Customer 20	Customer 21	WOH.0001.0025.0170	28/05/2018 12:24:41	18/06/2018 12:24:41	Unknown – Westpac did not find a response	St George	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 21	Customer 22	WOH.0001.0025.0175	14/01/2019 17:10:35	4/02/2019 17:10:35	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions	WOH.0001.0039.0065
Customer 22	Customer 24	WOH.0001.0025.0182	19/07/2019 11:34:36	9/08/2019 11:34:36	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0046.0009
Customer 23	Customer 25	WOH.0001.0025.0183	7/08/2019 9:30:07	28/08/2019 9:30:07	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0037.0001
Customer 24	Customer 26	WOH.0001.0025.0187	19/09/2019 11:24:50	10/10/2019 11:24:50	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0059.0009
Customer 25	Customer 27	WOH.0001.0025.0188	19/09/2019 11:41:32	10/10/2019 11:41:32	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0229
Customer 26	Customer 28	WOH.0001.0025.0190	20/10/2019 22:10:18	10/11/2019 22:10:18	Unknown – Westpac did not find a response	St George	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 27	Customer 29	WOH.0001.0025.0200	19/02/2020 10:47:30	11/03/2020 10:47:30	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0040.0068

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 28	Customer 30	WOH.0001.0025.0202	10/03/2020 15:49:56	31/03/2020 15:49:56	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use WOH.0001.0046.0053
Customer 29	Customer 31	WOH.0001.0025.0203	16/03/2020 10:52:20	6/04/2020 10:52:20	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions WOH.0001.0031.0181
Customer 30	Customer 32	WOH.0001.0025.0206	5/05/2020 13:21:28	26/05/2020 13:21:28	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use WOH.0001.0046.0005
Customer 31	Customer 33	WOH.0001.0025.0207	26/05/2020 10:34:50	16/06/2020 10:34:50	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions WOH.0001.0031.0203
Customer 32	Customer 34	WOH.0001.0025.0208	7/07/2020 13:52:34	28/07/2020 13:52:34	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions WOH.0001.0035.0204
Customer 33	Customer 35	WOH.0001.0025.0212	13/01/2021 11:18:47	3/02/2021 11:18:47	Unknown – Westpac did not find a response	St George	Credit card	SGB Credit Card Conditions of Use WOH.0001.0046.0057
Customer 34	Customer 36	WOH.0001.0025.0213	17/01/2021 18:23:51	7/02/2021 18:23:51	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use WOH.0001.0046.0061
Customer 35	Customer 38	WOH.0001.0025.0216	1/03/2021 13:15:06	22/03/2021 13:15:06	Unknown – Westpac did not find a response	St George	Auto Loan	SGB Fixed Rate Loan Agreement Standard Terms WOH.0001.0044.0307
Customer 36	Customer 40	WOH.0001.0025.0218	11/04/2021 17:39:08	2/05/2021 17:39:08	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions WOH.0001.0031.0001
Customer 37	Customer 41	WOH.0001.0025.0220	9/05/2021 17:09:10	30/05/2021 17:09:10	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions WOH.0001.0035.0275
Customer 38	Customer 42	WOH.0001.0025.0222	14/07/2021 16:10:07	4/08/2021 16:10:07	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions WOH.0001.0039.0057
Customer 39	Customer 43	WOH.0001.0025.0224	27/07/2021 11:00:08	17/08/2021 11:00:08	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions WOH.0001.0035.0501
Customer 40	Customer 44	WOH.0001.0025.0230	11/08/2021 12:15:35	1/09/2021 12:15:35	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions WOH.0001.0039.0016
Customer 41	Customer 45	WOH.0001.0025.0232	14/08/2021 14:10:00	4/09/2021 14:10:00	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions WOH.0001.0035.0494
Customer 42	Customer 46	WOH.0001.0025.0233	23/08/2021 16:25:05	13/09/2021 16:25:05	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions WOH.0001.0035.0451

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
						St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions
Customer 43	Customer 47	WOH.0001.0025.0234	25/08/2021 10:15:11	15/09/2021 10:15:11	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use
						St George	Personal Loan	SGB Personal Loan General Terms & Conditions
Customer 44	Customer 48	WOH.0001.0025.0239	30/11/2021 15:45:56	21/12/2021 15:45:56	Unknown – Westpac did not find a response	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions
Customer 45	Customer 52	WOH.0001.0025.0370	6/03/2018 17:24:52	27/03/2018 17:24:52	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 46	Customer 54	WOH.0001.0025.0375	20/03/2018 17:56:02	10/04/2018 17:56:02	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 47	Customer 55	WOH.0001.0025.0377	3/04/2018 19:05:45	24/04/2018 19:05:45	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 48	Customer 56	WOH.0001.0025.0379	23/04/2018 13:45:06	14/05/2018 13:45:06	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 49	Customer 58	WOH.0001.0025.0386	28/05/2018 12:27:24	18/06/2018 12:27:24	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
Customer 50	Customer 60	WOH.0001.0025.0394	3/07/2018 15:48:11	24/07/2018 15:48:11	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 51	Customer 61	WOH.0001.0025.0399	20/08/2018 14:22:09	10/09/2018 14:22:09	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions
Customer 52	Customer 62	WOH.0001.0025.0402	5/10/2018 15:21:29	26/10/2018 15:21:29	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷	
Customer 53	Customer 65	WOH.0001.0025.0411	25/10/2018 14:00:00	15/11/2018 14:00:00	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0033.0292
Customer 54	Customer 66	WOH.0001.0025.0418	17/12/2018 12:45:05	7/01/2019 12:45:05	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 55	Customer 67	WOH.0001.0025.0419	27/12/2018 12:21:31	17/01/2019 12:21:31	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 56	Customer 68	WOH.0001.0025.0427	24/02/2019 17:55:04	17/03/2019 17:55:04	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use	WOH.0001.0033.0926
						Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use	WOH.0001.0039.0144
Customer 57	Customer 70	WOH.0001.0025.0443	28/05/2019 18:07:06	18/06/2019 18:07:06	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 58	Customer 71	WOH.0001.0025.0444	30/05/2019 14:25:57	20/06/2019 14:25:57	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 59	Customer 72	WOH.0001.0025.0447	11/06/2019 10:25:50	2/07/2019 10:25:50	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 60	Customer 73	WOH.0001.0025.0448	11/06/2019 13:48:00	2/07/2019 13:48:00	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 61	Customer 74	WOH.0001.0025.0452	14/06/2019 14:53:11	5/07/2019 14:53:11	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 62	Customer 77	WOH.0001.0025.0494	17/10/2019 0:07:57	7/11/2019 0:07:57	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use	WOH.0001.0059.0013
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract
Customer 63	Customer 78	WOH.0001.0025.0499	18/10/2019 16:45:41	8/11/2019 16:45:41	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
Customer 64	Customer 79	WOH.0001.0025.0504	25/10/2019 11:32:14	15/11/2019 11:32:14	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
Customer 65	Customer 80	WOH.0001.0025.0505	25/10/2019 11:43:19	15/11/2019 11:43:19	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 66	Customer 82	WOH.0001.0025.0510	12/12/2019 16:03:02	2/01/2020 16:03:02	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
Customer 67	Customer 84	WOH.0001.0025.0513	17/12/2019 15:06:38	7/01/2020 15:06:38	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Combined Conditions of Use and Credit Guide
Customer 68	Customer 85	WOH.0001.0025.0515	3/01/2020 11:51:42	24/01/2020 11:51:42	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 69	Customer 87	WOH.0001.0025.0517	3/01/2020 11:57:47	24/01/2020 11:57:47	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
Customer 70	Customer 89	WOH.0001.0025.0522	3/02/2020 16:18:57	24/02/2020 16:18:57	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
						Westpac	Credit Card	WBC Combined Conditions of Use and Credit Guide
						Westpac	Credit Card	WBC Combined Conditions of Use and Credit Guide
Customer 71	Customer 90	WOH.0001.0025.0526	13/02/2020 17:02:45	5/03/2020 17:02:45	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 72	Customer 91	WOH.0001.0025.0527	13/02/2020 17:07:48	5/03/2020 17:07:48	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
Customer 73	Customer 92	WOH.0001.0025.0532	21/03/2020 9:45:04	11/04/2020 9:45:04	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 74	Customer 93	WOH.0001.0025.0534	24/03/2020 19:10:03	14/04/2020 19:10:03	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0839
Customer 75	Customer 94	WOH.0001.0025.0535	26/03/2020 8:54:38	16/04/2020 8:54:38	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
Customer 76	Customer 95	WOH.0001.0025.0536	26/03/2020 8:56:50	16/04/2020 8:56:50	Unknown – Westpac did not find a response	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions WOH.0001.0033.0589
Customer 77	Customer 96	WOH.0001.0025.0539	6/04/2020 12:58:16	27/04/2020 12:58:16	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0724
Customer 78	Customer 97	WOH.0001.0025.0541	8/05/2020 11:22:34	29/05/2020 11:22:34	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0708
						Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0708
						Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use WOH.0001.0033.0966 WOH.0001.0033.0971
Customer 79	Customer 98	WOH.0001.0025.0544	16/09/2020 14:38:27	7/10/2020 14:38:27	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
Customer 80	Customer 99	WOH.0001.0025.0545	4/10/2020 16:43:46	25/10/2020 16:43:46	Unknown – Westpac did not find a response	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions WOH.0001.0033.0746
Customer 81	Customer 100	WOH.0001.0025.0547	9/10/2020 13:30:07	30/10/2020 13:30:07	Unknown – Westpac did not find a response	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions WOH.0001.0033.0620
Customer 82	Customer 101	WOH.0001.0025.0549	22/10/2020 15:14:59	12/11/2020 15:14:59	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use WOH.0001.0033.0936
						Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0695
Customer 83	Customer 102	WOH.0001.0025.0553	13/01/2021 11:26:04	3/02/2021 11:26:04	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0872
						Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0872
Customer 84	Customer 103	WOH.0001.0025.0559	13/02/2021 1:27:05	6/03/2021 1:27:05	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
Customer 85	Customer 104	WOH.0001.0025.0560	13/02/2021 4:49:41	6/03/2021 4:49:41	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0882
Customer 86	Customer 105	WOH.0001.0025.0565	29/03/2021 12:45:11	19/04/2021 12:45:11	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0028.0737
Customer 87	Customer 106	WOH.0001.0025.0566	11/04/2021 19:39:08	2/05/2021 19:39:08	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹¹⁷	
Customer 88	Customer 109	WOH.0001.0025.0573	8/07/2021 16:10:05	29/07/2021 16:10:05	Unknown – Westpac did not find a response	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0035.1069
Customer 89	Customer 110	WOH.0001.0025.0574	16/07/2021 9:30:07	6/08/2021 9:30:07	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 90	Customer 112	WOH.0001.0025.0577	26/07/2021 17:25:06	16/08/2021 17:25:06	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 91	Customer 114	WOH.0001.0025.0585	24/08/2021 11:00:10	14/09/2021 11:00:10	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0035.1931
Customer 92	Customer 115	WOH.0001.0025.0587	1/09/2021 10:30:11	22/09/2021 10:30:11	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 93	Customer 116	WOH.0001.0025.0588	2/09/2021 11:20:18	23/09/2021 11:20:18	Unknown – Westpac did not find a response	Westpac	Personal Loan	WBC Flexi Loan Conditions of Use	WOH.0001.0035.2087
						Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0035.1038
Customer 94	Customer 117	WOH.0001.0025.0591	6/09/2021 14:25:25	27/09/2021 14:25:25	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0035.1808
Customer 95	Customer 118	WOH.0001.0025.0592	13/09/2021 11:30:13	4/10/2021 11:30:13	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 96	Customer 120	WOH.0001.0025.0598	1/11/2021 15:55:06	22/11/2021 15:55:06	Unknown – Westpac did not find a response	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use	WOH.0001.0035.2047
Customer 97	Customer 121	WOH.0001.0025.0600	20/11/2021 14:21:55	11/12/2021 14:21:55	Unknown – Westpac did not find a response	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0035.0824
Customer 98	Customer 123	WOH.0001.0094.0038 ¹¹⁹	5/07/2016 12:14:26	26/07/2016 12:14:26	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0040.0082
Customer 99	Customer 124	WOH.0001.0094.0040	10/08/2016 8:27:18	31/08/2016 8:27:18	Unknown – Westpac did not find a response	Bank SA	Credit Card	BankSA Credit Card Conditions of Use	WOH.0001.0040.0013
Customer 100	Customer 125	WOH.0001.0094.0044	27/11/2015 12:52:56	18/12/2015 12:52:56	Unknown – Westpac did not find a response	Bank of Melbourne	Credit Card	BoM Credit Card Conditions of Use	WOH.0001.0035.0004
						Bank of Melbourne	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Bank of Melbourne	Credit card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract

¹¹⁹ Customers 98 to 133 are affected customers to whom Westpac was required to provide a response to their online hardship notice application impacted by System Failure A before 4 September 2017, but to whom Westpac never gave a response.

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷	
						Bank of Melbourne	Credit card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 101	Customer 126	WOH.0001.0094.0045	3/02/2016 0:23:02	24/02/2016 0:23:02	Unknown – Westpac did not find a response	Bank of Melbourne	Credit Card	BoM Credit Card Conditions of Use	WOH.0001.0033.0029
Customer 102	Customer 127	WOH.0001.0094.0046	1/03/2016 13:01:01	22/03/2016 13:01:01	Unknown – Westpac did not find a response	Bank of Melbourne	Credit Card	BoM Credit Card Conditions of Use	WOH.0001.0033.0025
Customer 103	Customer 128	WOH.0001.0094.0048	1/08/2016 12:36:09	22/08/2016 12:36:09	Unknown – Westpac did not find a response	Bank of Melbourne	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 104	Customer 130	WOH.0001.0094.0055	15/01/2016 8:19:47	5/02/2016 8:19:47	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0310
Customer 105	Customer 134	WOH.0001.0094.0060	13/03/2016 12:05:33	3/04/2016 12:05:33	Unknown – Westpac did not find a response	St George	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 106	Customer 135	WOH.0001.0094.0063	27/04/2016 16:01:38	18/05/2016 16:01:38	Unknown – Westpac did not find a response	St George	Auto Loan	SGB Fixed Rate Loan Agreement Standard Terms	WOH.0001.0060.0001
Customer 107	Customer 136	WOH.0001.0094.0067	2/08/2016 13:45:40	23/08/2016 13:45:40	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0040.0027
Customer 108	Customer 137	WOH.0001.0094.0068	27/09/2016 15:09:10	18/10/2016 15:09:10	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0280
Customer 109	Customer 138	WOH.0001.0094.0069	25/10/2016 16:47:12	15/11/2016 16:47:12	Unknown – Westpac did not find a response	St George	Mortgage Loan	SGB Residential Loan Agreement General Terms and Conditions	WOH.0001.0039.0113
Customer 110	Customer 139	WOH.0001.0094.0070	1/12/2016 18:05:58	22/12/2016 18:05:58	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Advantage Package Terms and Conditions SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0359
Customer 111	Customer 141	WOH.0001.0094.0077	20/03/2017 8:54:25	10/04/2017 8:54:25	Unknown – Westpac did not find a response	St George	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 112	Customer 143	WOH.0001.0094.0081	25/05/2017 13:03:52	15/06/2017 13:03:52	Unknown – Westpac did not find a response	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0040.0089
Customer 113	Customer 144	WOH.0001.0094.0082	30/05/2017 15:43:27	20/06/2017 15:43:27	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0033.0017
Customer 114	Customer 145	WOH.0001.0094.0083	19/06/2017 8:52:27	10/07/2017 8:52:27	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0033.0047
Customer 115	Customer 146	WOH.0001.0094.0086	23/06/2017 10:00:07	14/07/2017 10:00:07	Unknown – Westpac did not find a response	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0033.0009
						St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0033.0063
						St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0033.0067
						St George	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷	
Customer 116	Customer 147	WOH.0001.0094.0091	16/10/2015 18:03:59	6/11/2015 18:03:59	Unknown – Westpac did not find a response	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0065.0093
						Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0048.0017
Customer 117	Customer 149	WOH.0001.0094.0104	12/02/2016 11:22:48	4/03/2016 11:22:48	Unknown – Westpac did not find a response	Westpac	Mortgage Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0037.0373
Customer 118	Customer 150	WOH.0001.0094.0105	25/02/2016 19:12:46	17/03/2016 19:12:46	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 119	Customer 151	WOH.0001.0094.0107	29/02/2016 19:06:19	21/03/2016 19:06:19	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Home loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Home loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 120	Customer 152	WOH.0001.0094.0109	9/03/2016 9:33:58	30/03/2016 9:33:58	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 121	Customer 154	WOH.0001.0094.0111	26/04/2016 20:46:57	17/05/2016 20:46:57	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 122	Customer 159	WOH.0001.0094.0121	17/06/2016 10:12:34	8/07/2016 10:12:34	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0035.0750
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 123	Customer 161	WOH.0001.0094.0128	18/07/2016 14:00:22	8/08/2016 14:00:22	Unknown – Westpac did not find a response	Westpac	Mortgage Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0037.0265

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷	
Customer 124	Customer 167	WOH.0001.0094.0143	27/09/2016 15:01:04	18/10/2016 15:01:04	Unknown – Westpac did not find a response	Westpac	Mortgage Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0037.0280
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Home loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 125	Customer 169	WOH.0001.0094.0147	25/10/2016 16:42:56	15/11/2016 16:42:56	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 126	Customer 171	WOH.0001.0094.0149	2/11/2016 16:32:33	23/11/2016 16:32:33	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Home loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 127	Customer 172	WOH.0001.0094.0152	15/12/2016 9:41:52	5/01/2017 9:41:52	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 128	Customer 175	WOH.0001.0094.0160	6/02/2017 14:13:17	27/02/2017 14:13:17	Unknown – Westpac did not find a response	Westpac	Mortgage Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0037.0251
Customer 129	Customer 177	WOH.0001.0094.0162	20/02/2017 14:08:39	13/03/2017 14:08:39	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷	
Customer 130	Customer 178	WOH.0001.0094.0166	8/03/2017 15:37:42	29/03/2017 15:37:42	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 131	Customer 179	WOH.0001.0094.0169	24/03/2017 20:50:44	14/04/2017 20:50:44	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 132	Customer 181	WOH.0001.0094.0176	24/04/2017 13:18:06	15/05/2017 13:18:06	Unknown – Westpac did not find a response	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 133	Customer 184	WOH.0001.0094.0184	3/07/2017 13:04:26	24/07/2017 13:04:26	Unknown – Westpac did not find a response	Westpac	Mortgage Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0037.0351
Customer 134	Customer 186	WOH.0001.0025.0096 ¹²⁰	4/12/2018 11:52:14	25/12/2018 11:52:14	22/01/2019	Bank of Melbourne	Personal Loan	BoM Personal Loan General Terms and Conditions	WOH.0001.0035.0008
Customer 135	Customer 187	WOH.0001.0025.0103	29/12/2019 15:01:37	19/01/2020 15:01:37	22/01/2020	Bank of Melbourne	Credit Card	BoM Credit Card Conditions of Use	WOH.0001.0048.0069
Customer 136	Customer 188	WOH.0001.0025.0114	6/09/2021 9:15:09	27/09/2021 9:15:09	08/10/2021	Bank of Melbourne	Home Loan	BoM Residential Loan Agreement General Terms and Conditions BoM Advantage Package Terms and Conditions	WOH.0001.0043.0001
Customer 137	Customer 189	WOH.0001.0025.0118	28/10/2021 9:04:55	18/11/2021 9:04:55	25/11/2021	Bank of Melbourne	Home Loan	BoM Residential Loan Agreement General Terms and Conditions	WOH.0001.0035.0384
Customer 138	Customer 192	WOH.0001.0025.0225	28/07/2021 12:45:07	18/08/2021 12:45:07	04/09/2021	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions	WOH.0001.0061.0073
						St George	Overdraft	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 139	Customer 195	WOH.0001.0094.0188	22/08/2017 10:21:30	12/09/2017 10:21:30	23/09/2017	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0035.0961
Customer 140	Customer 196	WOH.0001.0094.0192	12/09/2017 10:40:47	3/10/2017 10:40:47	09/10/2017	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract

¹²⁰ Customers 134 to 144 are affected customers who received a response to their online hardship notice impacted by System Failure A outside the timeframe, and the period within which Westpac did not respond to that notice occurred either wholly or partially after 4 September 2017.

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)			
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹¹⁷	
Customer 141	Customer 197	WOH.0001.0025.0412	25/10/2018 13:46:56	15/11/2018 13:46:56	20/11/2018	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions	WOH.0001.0033.0320
Customer 142	Customer 198	WOH.0001.0025.0456	21/07/2019 12:32:51	11/08/2019 12:32:51	07/09/2019	Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 143	Customer 201	WOH.0001.0025.0474	19/09/2019 12:23:01	10/10/2019 12:23:01	17/10/2019	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use	WOH.0001.0033.0825 WOH.0001.0033.0826
Customer 144	Customer 204	WOH.0001.0025.0530	10/03/2020 15:48:41	31/03/2020 15:48:41	18/04/2020	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions	WOH.0001.0028.0654
Customer 145	Customer 208	WOH.0001.0025.0116 ¹²¹	5/10/2021 12:45:19	26/10/2021 12:45:19	N/A ¹²²	Bank of Melbourne	Credit Card	BoM Credit Card Conditions of Use	WOH.0001.0040.0009
Customer 146	Customer 209	WOH.0001.0025.0146	13/12/2017 18:10:49	3/01/2018 18:10:49	N/A ¹²³	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0217
Customer 147	Customer 210	WOH.0001.0094.0089	12/09/2017 10:42:01	3/10/2017 10:42:01	N/A ¹²⁴	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0128
Customer 148	Customer 211	WOH.0001.0025.0178	31/03/2019 15:19:51	21/04/2019 15:19:51	N/A ¹²⁵	St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0046.0034
Customer 149	Customer 212	WOH.0001.0025.0191	20/10/2019 22:47:26	10/11/2019 22:47:26	N/A ¹²⁶	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0040.0039
Customer 150	Customer 213	WOH.0001.0025.0201	25/02/2020 8:30:07	17/03/2020 8:30:07	N/A ¹²⁷	St George	Personal Loan	SGB Personal Loan General Terms & Conditions	WOH.0001.0035.0137
						St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0046.0089
						St George	Credit Card	SGB Credit Card Conditions of Use	WOH.0001.0046.0025
Customer 151	Customer 214	WOH.0001.0025.0209	7/09/2020 14:50:34	28/09/2020 14:50:34	N/A ¹²⁸	St George	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 152	Customer 216	WOH.0001.0025.0221	2/07/2021 15:25:07	23/07/2021 15:25:07	N/A ¹²⁹	St George	Home Loan	SGB Residential Loan Agreement General Terms and Conditions SGB Advantage Package Terms and Conditions	WOH.0001.0039.0072
Customer 153	Customer 217	WOH.0001.0094.0189	22/08/2017 10:26:56	12/09/2017 10:26:56	N/A ¹³⁰	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract
Customer 154	Customer 218	WOH.0001.0025.0416	7/12/2018 13:00:12	28/12/2018 13:00:12		Westpac	Personal Loan	Unknown – Westpac could not locate credit contract	Not provided – Westpac could not locate credit contract

¹²¹ Customers 145 to 164 are affected customers who lodged another hardship notice more than 21 days after their online hardship notice impacted by System Failure A, and the period within which Westpac did not respond to the impacted online hardship notice occurred at least either wholly or partially after 4 September 2017.

¹²² Submitted another hardship notice on 09/11/2021, 35 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to on the same day.

¹²³ Submitted another hardship notice on 16/01/2018, 34 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 14 days.

¹²⁴ Submitted another hardship notice on 18/10/2017, 36 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 6 days.

¹²⁵ Submitted another hardship notice on 24/04/2019, 24 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 14 days.

¹²⁶ Submitted another hardship notice on 13/11/2019, 24 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 12 days.

¹²⁷ Submitted another hardship notice on 20/03/2020, 24 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 18 days.

¹²⁸ Submitted another hardship notice on 07/10/2020, 30 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to on the same day.

¹²⁹ Submitted another hardship notice on 26/07/2021, 24 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 5 days.

¹³⁰ Submitted another hardship notice on 18/09/2017, 27 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 15 days.

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
					N/A ¹³¹	Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
Customer 155	Customer 219	WOH.0001.0025.0446	11/06/2019 10:23:32	2/07/2019 10:23:32	N/A ¹³²	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions
Customer 156	Customer 220	WOH.0001.0025.0496	17/10/2019 8:49:30	7/11/2019 8:49:30	N/A ¹³³	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract
						Westpac	Overdraft	Unknown – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
Customer 157	Customer 222	WOH.0001.0025.0518	19/01/2020 8:34:56	9/02/2020 8:34:56	N/A ¹³⁴	Westpac	Credit Card	WBC Consumer Credit Cards Conditions of Use
						Westpac	Personal Loan	WBC Personal Loan Contract General Conditions
Customer 158	Customer 223	WOH.0001.0025.0519	22/01/2020 14:52:53	12/02/2020 14:52:53	N/A ¹³⁵	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions
						Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions
Customer 159	Customer 224	WOH.0001.0092.0033	7/09/2020 13:48:00	28/09/2020 13:48:00	N/A ¹³⁶	Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
						Westpac	Personal Loan	Unknown – Westpac could not locate credit contract
Customer 160	Customer 225	WOH.0001.0025.0546	9/10/2020 11:05:51	30/10/2020 11:05:51	N/A ¹³⁷	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions

¹³¹ Submitted another hardship notice on 10/01/2019, 34 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 4 days.

¹³² Submitted another hardship notice on 01/08/2019, 51 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 6 days.

¹³³ Submitted another hardship notice on 08/11/2019, 22 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 10 days.

¹³⁴ Submitted another hardship notice on 09/02/2020, 21 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 4 days.

¹³⁵ Submitted another hardship notice on 19/02/2020, 28 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 1 day.

¹³⁶ Submitted another hardship notice on 29/09/2020, 22 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 14 days.

¹³⁷ Submitted another hardship notice on 28/11/2020, 48 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 4 days.

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹¹⁷
Customer 161	Customer 226	WOH.0001.0025.0579	28/07/2021 15:55:08	18/08/2021 15:55:08	N/A ¹³⁸	Westpac	Home Loan	WBC Additional Information - WOH.0001.0035.1191 (page 4) WOH.0001.0035.1191
Customer 162	Customer 227	WOH.0001.0025.0580	1/08/2021 12:45:18	22/08/2021 12:45:18	N/A ¹³⁹	Westpac	Home Loan	WBC You and Your Loan Booklet of Standard Terms and Conditions WOH.0001.0035.1959
						Westpac	Home Loan	WBC Special Conditions for Fixed Rate Loans - WOH.0001.0035.1937 (page 3) WOH.0001.0035.1937
						Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
Customer 163	Customer 228	WOH.0001.0025.0589	2/09/2021 11:27:17	23/09/2021 11:27:17	N/A ¹⁴⁰	Westpac	Credit Card	Unknown – Westpac could not locate credit contract Not provided – Westpac could not locate credit contract
						Westpac	Personal Loan	WBC Personal Loan Contract General Conditions WOH.0001.0028.0890
Customer 164	Customer 229	WOH.0001.0025.0605	26/12/2021 7:02:46	16/01/2022 7:02:46	N/A ¹⁴¹	Westpac	Personal Loan	WBC Personal Loan Contract General Conditions WOH.0001.0035.1135
Customer 165	Customer 231	WOH.0001.0109.0008	04/07/2017 12:02:06	25/07/2017 12:02:06	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 166	Customer 236	WOH.0001.0109.0022	02/11/2016 10:19:26	23/11/2016 10:19:26	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 8 years
Customer 167	Customer 237	WOH.0001.0109.0069	06/10/2015 10:37:29	27/10/2015 10:37:29	Unknown – Westpac did not find a response	Bank SA	Personal Loan	Perf Sec Fixed Personal Loan 5 yr
Customer 168	Customer 239	WOH.0001.0109.0945	24/01/2022 11:01:50	14/02/2022 11:01:50	Unknown – Westpac did not find a response	Bank SA	Home Loan	Inv MTM Fixed Home Loan 3 yr P&I
Customer 169	Customer 240	WOH.0001.0109.0538	06/11/2022 19:30:20	27/11/2022 19:30:20	Unknown – Westpac did not find a response	Bank SA	Home Loan	Occ Std Variable Home Loan P&I
						Bank SA	Home Loan	Occ MTM Fixed Home Loan 2 yr P&I
Customer 170	Customer 241	WOH.0001.0109.0096	22/10/2015 11:00:45	12/11/2015 11:00:45	Unknown – Westpac did not find a response	Bank of Melbourne	Personal Loan	Perf Unsec Fixed Personal Loan 2 yr
Customer 171	Customer 245	WOH.0001.0109.0649	07/07/2017 11:26:06	28/07/2017 11:26:06	Unknown – Westpac did not find a response	St George	Personal Loan	Perf Unsec Variable Personal Loan
Customer 172	Customer 246	WOH.0001.0109.0837	14/05/2019 12:44:55	04/06/2019 12:44:55	Unknown – Westpac did not find a response	Bank of Melbourne	Credit Card	Personal Credit Cards - Low Rate
Customer 173	Customer 247	WOH.0001.0109.0540	30/06/2020 8:43:58	21/07/2020 8:43:58	Unknown – Westpac did not find a response	Bank of Melbourne	Home Loan	Inv MTM Fixed Home Loan 2 yr IOnly
Customer 174	Customer 248	WOH.0001.0109.0541	20/09/2021 14:18:19	11/10/2021 14:18:19	Unknown – Westpac did not find a response	Bank of Melbourne	Home Loan	Occ Std Variable Home Loan P&I

¹³⁸ Submitted another hardship notice on 25/08/2021, 28 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 8 days.

¹³⁹ Submitted another hardship notice on 29/08/2021, 28 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 2 days.

¹⁴⁰ Submitted another hardship notice on 18/10/2021, 46 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 14 days.

¹⁴¹ Submitted another hardship notice on 01/02/2022, 37 days after submitting the online hardship notice impacted by System Failure A. The other hardship notice was responded to within 1 day.

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 175	Customer 251	WOH.0001.0109.0121	05/10/2015 11:33:03	26/10/2015 11:33:03	Unknown – Westpac did not find a response	St George	Auto Finance	CFAL Sovereign Consumer Finance 2
Customer 176	Customer 253	WOH.0001.0109.0138	10/10/2015 13:04:42	31/10/2015 13:04:42	Unknown – Westpac did not find a response	St George St George	Home Loan Home Loan	Occ Std Variable Home Loan P&I Occ Std Variable Home Loan P&I
Customer 177	Customer 254	WOH.0001.0109.0144	13/10/2015 22:28:51	03/11/2015 22:28:51	Unknown – Westpac did not find a response	St George	Home Loan	Occ Basic Variable Home Loan P&I
Customer 178	Customer 258	WOH.0001.0109.0173	21/10/2015 14:05:19	11/11/2015 14:05:19	Unknown – Westpac did not find a response	St George	Personal Loan	Perf Unsec Variable Personal Loan
Customer 179	Customer 261	WOH.0001.0109.0196	26/10/2015 21:49:12	16/11/2015 21:49:12	Unknown – Westpac did not find a response	St George	Personal Loan	Perf Unsec Variable Personal Loan
Customer 180	Customer 263	WOH.0001.0109.0213	30/10/2015 9:57:05	20/11/2015 9:57:05	Unknown – Westpac did not find a response	Bank of Melbourne	Credit Card	Personal Credit Cards - Low Rate
Customer 181	Customer 264	WOH.0001.0109.0226	02/11/2015 21:29:18	23/11/2015 21:29:18	Unknown – Westpac did not find a response	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 182	Customer 265	WOH.0001.0109.0235	03/11/2015 13:52:37	24/11/2015 13:52:37	Unknown – Westpac did not find a response	St George	Home Loan	Inv Std Variable Home Loan IOnly
Customer 183	Customer 266	WOH.0001.0109.0254	06/11/2015 19:40:26	27/11/2015 19:40:26	Unknown – Westpac did not find a response	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 184	Customer 277	WOH.0001.0109.0841	05/11/2017 14:58:31	26/11/2017 14:58:31	Unknown – Westpac did not find a response	St George	Home Loan	Occ Basic Variable Home Loan P&I
Customer 185	Customer 279	WOH.0001.0109.0659	15/03/2017 11:44:07	05/04/2017 11:44:07	Unknown – Westpac did not find a response /A	St George St George	Personal Loan Home Loan	Perf Unsec Variable Personal Loan Occ MTM Fixed Home Loan 2 yr P&I
Customer 186	Customer 284	WOH.0001.0109.0667	01/11/2018 20:20:26	22/11/2018 20:20:26	Unknown – Westpac did not find a response	St George	Personal Loan	Perf Unsec Variable Personal Loan
Customer 187	Customer 286	WOH.0001.0109.0546	12/06/2019 12:54:59	03/07/2019 12:54:59	02/09/2019	St George	Home Loan	Occ Basic Variable Home Loan P&I
Customer 188	Customer 287	WOH.0001.0109.0735	25/10/2019 18:10:27	15/11/2019 18:10:27	Unknown – Westpac did not find a response	St George St George	Auto Finance Credit Card	CFAL Sovereign Consumer Finance - Secured (COF) Personal Credit Cards - Low Rate
Customer 189	Customer 289	WOH.0001.0109.0737	26/03/2020 14:09:06	16/04/2020 14:09:06	Unknown – Westpac did not find a response	St George	Auto Finance	CFAL Sovereign Consumer Finance - Secured (COF)
Customer 190	Customer 291	WOH.0001.0109.0739	30/11/2020 16:40:15	21/12/2020 16:40:15	Unknown – Westpac did not find a response	St George	Auto Finance	SGB Consumer Finance (CCC) - Sovereign COF
Customer 191	Customer 292	WOH.0001.0109.0549	16/02/2021 14:29:58	09/03/2021 14:29:58	Unknown – Westpac did not find a response	St George	Home Loan	Inv Basic Variable Home Loan P&I

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 192	Customer 293	WOH.0001.0109.0670	30/03/2021 11:24:51	20/04/2021 11:24:51	21/04/2021	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 193	Customer 294	WOH.0001.0109.0741	13/06/2021 18:26:41	04/07/2021 18:26:41	Unknown – Westpac did not find a response	St George	Personal Loan	Perf Unsec Variable Personal Loan
Customer 194	Customer 295	WOH.0001.0109.0553	13/07/2021 22:48:26	03/08/2021 22:48:26	Unknown – Westpac did not find a response	St George	Home Loan	Occ MTM Fixed Home Loan 2 yr IOnly
Customer 195	Customer 296	WOH.0001.0109.0554	14/07/2021 7:06:34	04/08/2021 7:06:34	Unknown – Westpac did not find a response	St George	Personal Loan	Perf Sec Fixed Personal Loan 3 yr
Customer 196	Customer 298	WOH.0001.0109.0557	07/12/2021 21:45:06	28/12/2021 21:45:06	Unknown – Westpac did not find a response	Bank SA St George	Credit Card Personal Loan	Personal Credit Cards - Low Rate Perf Sec Variable Personal Loan
Customer 197	Customer 299	WOH.0001.0109.0743	11/01/2022 10:52:15	01/02/2022 10:52:15	Unknown – Westpac did not find a response	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 198	Customer 300	WOH.0001.0109.0673	10/06/2022 14:48:23	01/07/2022 14:48:23	Unknown – Westpac did not find a response	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 199	Customer 301	WOH.0001.0109.0745	06/09/2022 19:47:04	27/09/2022 19:47:04	Unknown – Westpac did not find a response	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 200	Customer 302	WOH.0001.0109.0563	25/11/2022 14:49:57	16/12/2022 14:49:57	Unknown – Westpac did not find a response	St George	Home Loan	Occ Basic Variable Home Loan P&I
Customer 201	Customer 303	WOH.0001.0109.0564	25/11/2022 14:54:56	16/12/2022 14:54:56	Unknown – Westpac did not find a response	St George	Home Loan	Occ MTM Fixed Home Loan 4 yr P&I
Customer 202	Customer 304	WOH.0001.0109.0565	26/11/2022 15:44:49	17/12/2022 15:44:49	14/06/2023	St George	Personal Loan	Perf Unsec Fixed Personal Loan 5 yr
Customer 203	Customer 305	WOH.0001.0109.0566	10/12/2022 15:20:02	31/12/2022 15:20:02	09/01/2023	St George St George	Home Loan Home Loan	Occ Std Variable Home Loan P&I Occ MTM Fixed Home Loan 2 yr P&I
Customer 204	Customer 306	WOH.0001.0109.0569	29/01/2023 21:44:48	19/02/2023 21:44:48	Unknown – Westpac did not find a response	St George	Credit Card	Personal Credit Cards - Rewards
Customer 205	Customer 307	WOH.0001.0109.0571	30/01/2023 12:32:10	20/02/2023 12:32:10	28/02/2023	St George	Credit Card	Personal Credit Cards - Low Rate
Customer 206	Customer 308	WOH.0001.0109.0572	05/03/2023 22:21:36	26/03/2023 22:21:36	13/04/2023	St George	Home Loan	Occ MTM Fixed Home Loan 3 yr P&I
Customer 207	Customer 309	WOH.0001.0109.0573	06/03/2023 12:10:08	27/03/2023 12:10:08	Unknown – Westpac did not find a response	St George	Auto Finance	SGB Consumer Finance (CCC) - Sovereign COF
Customer 208	Customer 314	WOH.0001.0109.0393	17/10/2015 8:25:17	07/11/2015 8:25:17	Unknown – Westpac did not find a response	Westpac Westpac	Credit Card Credit Card	Personal Credit Cards - Low Rate Personal Credit Cards - Low Rate
Customer 209	Customer 316	WOH.0001.0109.0399	20/10/2015 15:06:13	10/11/2015 15:06:13	Unknown – Westpac did not find a response	Westpac	Home Loan	IPL - Fixed Rate - MSS

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 210	Customer 317	WOH.0001.0109.0416	26/10/2015 14:39:48	16/11/2015 14:39:48	Unknown – Westpac did not find a response	Westpac	Personal Loan	Personal Line of Credit
Customer 211	Customer 319	WOH.0001.0109.0424	28/10/2015 5:45:59	18/11/2015 5:45:59	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Fee
Customer 212	Customer 320	WOH.0001.0109.0435	30/10/2015 11:28:53	20/11/2015 11:28:53	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 4 years
						Westpac	Credit Card	Personal Credit Cards - Rewards
						Westpac	Personal Loan	Flexi Loan
Customer 213	Customer 322	WOH.0001.0109.0448	04/11/2015 17:43:26	25/11/2015 17:43:26	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
						Westpac	Home Loan	Fixed Option Home Loan - MSS
Customer 214	Customer 325	WOH.0001.0109.0457	10/11/2015 4:39:42	01/12/2015 4:39:42	Unknown – Westpac did not find a response	Westpac	Personal Loan	Flexi Loan
						Westpac	Personal Loan	Flexi Loan
Customer 215	Customer 338	WOH.0001.0109.0857	21/11/2017 11:37:08	12/12/2017 11:37:08	Unknown – Westpac did not find a response	Westpac	Home Loan	Fixed Option Home Loan - MSS
						Westpac	Personal Loan	Personal Line of Credit
						Westpac	Personal Loan	Personal Line of Credit
Customer 216	Customer 340	WOH.0001.0109.0750	11/12/2017 10:48:41	01/01/2018 10:48:41	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
						Westpac	Home Loan	Fixed Option Home Loan - MSS
Customer 217	Customer 341	WOH.0001.0109.0751	14/12/2017 14:48:11	04/01/2018 14:48:11	05/01/2018	Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 218	Customer 343	WOH.0001.0109.0860	23/01/2017 12:54:10	13/02/2017 12:54:10	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
						Westpac	Personal Loan	Personal Line of Credit
Customer 219	Customer 344	WOH.0001.0109.0691	02/03/2017 12:26:39	23/03/2017 12:26:39	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
						Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 220	Customer 345	WOH.0001.0109.0696	21/08/2017 12:04:24	11/09/2017 12:04:24	05/10/2017	Westpac	Home Loan	Rocket - Variable - IPL - MSS
Customer 221	Customer 347	WOH.0001.0109.0698	29/08/2017 10:50:07	19/09/2017 10:50:07	Unknown – Westpac did not find a response	Westpac	Credit Card	Visa - Low Rate
						Westpac	Personal Loan	Flexi Loan
Customer 222	Customer 348	WOH.0001.0109.0754	28/02/2018 11:00:29	21/03/2018 11:00:29	Unknown – Westpac did not find a response	Westpac	Home Loan	Fixed Option Home Loan - MSS
						Westpac	Home Loan	IPL - Fixed Rate - MSS
Customer 223	Customer 349	WOH.0001.0109.0755	27/04/2018 11:26:09	18/05/2018 11:26:09	22/06/2018	Westpac	Personal Loan	Flexi Loan
Customer 224	Customer 350	WOH.0001.0109.0874	12/08/2018 12:05:18	02/09/2018 12:05:18	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
Customer 225	Customer 351	WOH.0001.0109.0876	18/10/2018 12:50:28	08/11/2018 12:50:28	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 226	Customer 352	WOH.0001.0109.0700	22/10/2018 14:01:52	12/11/2018 14:01:52	Unknown – Westpac did not find a response	Westpac	Home Loan	Fixed Option Home Loan - MSS
Customer 227	Customer 353	WOH.0001.0109.0877	23/10/2018 10:27:33	13/11/2018 10:27:33	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
						Westpac	Home Loan	Rocket - Variable - IPL - MSS
						Westpac	Credit Card	Personal Credit Cards - Rewards

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 228	Customer 356	WOH.0001.0109.0886	01/02/2019 12:38:38	22/02/2019 12:38:38	Unknown – Westpac did not find a response	Westpac	Personal Loan	Personal Line of Credit
Customer 229	Customer 357	WOH.0001.0109.0887	14/02/2019 16:08:44	07/03/2019 16:08:44	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Rewards
Customer 230	Customer 359	WOH.0001.0109.0899	07/05/2019 11:06:22	28/05/2019 11:06:22	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Rewards
Customer 231	Customer 363	WOH.0001.0109.0715	22/08/2019 15:05:40	12/09/2019 15:05:40	Unknown – Westpac did not find a response	Westpac	Personal Loan	Personal Line of Credit
Customer 232	Customer 364	WOH.0001.0109.0907	10/09/2019 16:17:15	01/10/2019 16:17:15	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 233	Customer 365	WOH.0001.0109.0908	14/09/2019 22:50:54	05/10/2019 22:50:54	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 234	Customer 366	WOH.0001.0109.0909	17/09/2019 10:52:40	08/10/2019 10:52:40	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 235	Customer 367	WOH.0001.0109.0912	25/09/2019 13:37:15	16/10/2019 13:37:15	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Rewards
Customer 236	Customer 368	WOH.0001.0109.0917	08/10/2019 14:25:44	29/10/2019 14:25:44	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 237	Customer 369	WOH.0001.0109.0921	10/10/2019 23:22:10	31/10/2019 23:22:10	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Fee
Customer 238	Customer 370	WOH.0001.0109.0927	16/10/2019 10:21:00	06/11/2019 10:21:00	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 239	Customer 371	WOH.0001.0109.0928	16/10/2019 15:04:52	06/11/2019 15:04:52	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Rewards
Customer 240	Customer 372	WOH.0001.0109.0931	19/10/2019 9:03:26	09/11/2019 9:03:26	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 241	Customer 373	WOH.0001.0109.0932	20/10/2019 18:27:51	10/11/2019 18:27:51	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 242	Customer 374	WOH.0001.0109.0934	11/11/2019 5:57:04	02/12/2019 5:57:04	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 243	Customer 375	WOH.0001.0109.0935	05/12/2019 19:48:04	26/12/2019 19:48:04	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 5 years
						Westpac	Personal Loan	Unsecured Personal Loan 3 years
						Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
						Westpac	Home Loan	Fixed Option Home Loan - MSS
Customer 244	Customer 376	WOH.0001.0109.0936	10/02/2020 10:42:55	02/03/2020 10:42:55	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Rewards

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 245	Customer 378	WOH.0001.0109.0767	16/03/2020 17:53:40	06/04/2020 17:53:40	Unknown – Westpac did not find a response	Westpac	Home Loan	Flexi First Option Home Loan
Customer 246	Customer 379	WOH.0001.0109.0769	21/03/2020 14:24:04	11/04/2020 14:24:04	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
						Westpac	Home Loan	Rocket - Variable - IPL - MSS
						Westpac	Home Loan	IPL - Fixed Rate - MSS
						Westpac	Home Loan	IPL - Fixed Rate - MSS
						Westpac	Home Loan	IPL - Fixed Rate - MSS
						Westpac	Home Loan	IPL - Fixed Rate - MSS
Customer 247	Customer 380	WOH.0001.0109.0771	21/03/2020 12:59:36	11/04/2020 12:59:36	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 248	Customer 381	WOH.0001.0109.0772	21/03/2020 14:10:27	11/04/2020 14:10:27	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 249	Customer 382	WOH.0001.0109.0774	23/03/2020 15:00:26	13/04/2020 15:00:26	Unknown – Westpac did not find a response	Westpac	Home Loan	Flexi First Option Home Loan
Customer 250	Customer 383	WOH.0001.0109.0775	24/03/2020 12:44:18	14/04/2020 12:44:18	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
						Westpac	Personal Loan	Unsecured Personal Loan 7 years
						Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 251	Customer 384	WOH.0001.0109.0776	25/03/2020 11:51:14	15/04/2020 11:51:14	Unknown – Westpac did not find a response	Westpac	Home Loan	Flexi First Option Home Loan
Customer 252	Customer 385	WOH.0001.0109.0777	26/03/2020 18:33:49	16/04/2020 18:33:49	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 253	Customer 386	WOH.0001.0109.0937	27/03/2020 15:53:12	17/04/2020 15:53:12	Unknown – Westpac did not find a response	Westpac	Home Loan	Flexi First Option Home Loan
						Westpac	Home Loan	Flexi First Option Home Loan
						Westpac	Credit Card	Personal Credit Cards - Rewards
						Westpac	Credit Card	Personal Credit Cards - Rewards
Customer 254	Customer 387	WOH.0001.0109.0779	02/04/2020 10:22:33	23/04/2020 10:22:33	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
Customer 255	Customer 388	WOH.0001.0109.0780	03/04/2020 15:13:29	24/04/2020 15:13:29	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 5 years
Customer 256	Customer 389	WOH.0001.0109.0781	06/04/2020 11:07:36	27/04/2020 11:07:36	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 2 years
Customer 257	Customer 391	WOH.0001.0109.0783	14/04/2020 16:13:58	05/05/2020 16:13:58	Unknown – Westpac did not find a response	Westpac	Home Loan	IPL - Fixed Rate - MSS
Customer 258	Customer 392	WOH.0001.0109.0785	28/04/2020 10:51:58	19/05/2020 10:51:58	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
Customer 259	Customer 393	WOH.0001.0109.0786	30/04/2020 13:28:10	21/05/2020 13:28:10	Unknown – Westpac did not find a response	Westpac	Home Loan	Equity Access - MSS
						Westpac	Credit Card	Visa - Low Rate
Customer 260	Customer 394	WOH.0001.0109.0586	24/08/2020 20:26:23	14/09/2020 20:26:23	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 261	Customer 396	WOH.0001.0109.0940	01/10/2020 14:19:41	22/10/2020 14:19:41	Unknown – Westpac did not find a response	Westpac	Personal Loan	Flexi Loan
Customer 262	Customer 397	WOH.0001.0109.0941	22/12/2020 14:24:26	12/01/2021 14:24:26	05/03/2021	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 263	Customer 399	WOH.0001.0109.0720	30/03/2021 12:04:40	20/04/2021 12:04:40	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 264	Customer 400	WOH.0001.0109.0799	03/07/2021 19:53:44	24/07/2021 19:53:44	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 6 years
Customer 265	Customer 402	WOH.0001.0109.0592	13/07/2021 20:53:27	03/08/2021 20:53:27	Unknown – Westpac did not find a response	Westpac Westpac Westpac	Home Loan Home Loan Credit Card	Rocket - Variable - IPL - MSS Fixed Option Home Loan - MSS Personal Credit Cards - Rewards
Customer 266	Customer 405	WOH.0001.0109.0802	19/07/2021 9:40:34	09/08/2021 9:40:34	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 267	Customer 406	WOH.0001.0109.0803	21/09/2021 13:05:14	12/10/2021 13:05:14	Unknown – Westpac did not find a response	Westpac Westpac	Personal Loan Home Loan	Unsecured PL 7 years Fixed Option Home Loan - MSS
Customer 268	Customer 407	WOH.0001.0109.0599	20/09/2021 14:12:34	11/10/2021 14:12:34	Unknown – Westpac did not find a response	Westpac	Home Loan	IPL - Fixed Rate - MSS
Customer 269	Customer 409	WOH.0001.0109.0601	07/12/2021 21:48:04	28/12/2021 21:48:04	Unknown – Westpac did not find a response	Westpac	Home Loan	Rocket - Variable - IPL - MSS
Customer 270	Customer 410	WOH.0001.0109.0603	07/12/2021 22:43:46	28/12/2021 22:43:46	Unknown – Westpac did not find a response	Westpac Westpac	Personal Loan Personal Loan	Unsecured Personal Loan 3 years Unsecured Personal Loan 5 years
Customer 271	Customer 411	WOH.0001.0109.0609	08/01/2022 13:56:16	29/01/2022 13:56:16	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 272	Customer 412	WOH.0001.0109.0807	10/01/2022 16:30:26	31/01/2022 16:30:26	01/02/2022	Westpac Westpac	Home Loan Home Loan	Rocket - Variable - IPL - MSS Rocket - Variable - IPL - MSS
Customer 273	Customer 413	WOH.0001.0109.0610	20/03/2022 11:30:44	10/04/2022 11:30:44	Unknown – Westpac did not find a response	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 274	Customer 414	WOH.0001.0109.0954	23/03/2022 13:21:49	13/04/2022 13:21:49	19/04/2022	Westpac Westpac Westpac	Home Loan Home Loan Credit Card	Rocket - Housing Loan Variable - MSS Fixed Option Home Loan - MSS Personal Credit Cards - Low Rate
Customer 275	Customer 415	WOH.0001.0109.0955	23/03/2022 13:24:06	13/04/2022 13:24:06	21/04/2022	Westpac	Credit Card	Personal Credit Cards - Low Rate
Customer 276	Customer 416	WOH.0001.0109.0816	15/07/2022 13:35:55	05/08/2022 13:35:55	Unknown – Westpac did not find a response	Westpac	Home Loan	Flexi First Option Home Loan
Customer 277	Customer 418	WOH.0001.0109.0616	04/11/2022 15:30:27	25/11/2022 15:30:27	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 6 years
Customer 278	Customer 420	WOH.0001.0109.0620	08/11/2022 14:40:39	29/11/2022 14:40:39	Unknown – Westpac did not find a response	Westpac Westpac	Home Loan Home Loan	Flexi First Option Home Loan Flexi First Option Home Loan

Customer #		Online Hardship notice		Decision Notice		Credit Contract(s)		
SOAF	ACS	Document ID	Date Time	Date Required	Date Provided	Brand	Type	Details of Credit Product(s) ¹⁷
Customer 279	Customer 421	WOH.0001.0109.0622	25/11/2022 14:47:39	16/12/2022 14:47:39	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 7 years
Customer 280	Customer 422	WOH.0001.0109.0726	30/11/2022 21:19:35	21/12/2022 21:19:35	Unknown – Westpac did not find a response	Westpac Westpac	Home Loan Home Loan	Flexi First Option Investment Loan Fixed Option Home Loan - MSS
Customer 281	Customer 423	WOH.0001.0109.0631	14/12/2022 15:14:21	04/01/2023 15:14:21	01/03/2023 21/02/2023 01/03/2023	Westpac Westpac Westpac	Home Loan Home Loan Home Loan	Rocket - Variable - IPL - MSS Rocket - Variable - IPL - MSS Rocket - Variable - IPL - MSS
Customer 282	Customer 425	WOH.0001.0109.0632	23/01/2023 14:27:03	13/02/2023 14:27:03	01/03/2023	Westpac	Home Loan	Rocket - Variable - IPL - MSS
Customer 283	Customer 428	WOH.0001.0109.0831	20/02/2023 18:51:59	13/03/2023 18:51:59	Unknown – Westpac did not find a response	Westpac	Home Loan	Flexi First Option Home Loan
Customer 284	Customer 429	WOH.0001.0109.0641	06/03/2023 6:23:29	27/03/2023 6:23:29	Unknown – Westpac did not find a response	Westpac Westpac	Home Loan Home Loan	Rocket - Housing Loan Variable - MSS Rocket - Variable - IPL - MSS
Customer 285	Customer 430	WOH.0001.0109.0832	06/03/2023 17:36:57	27/03/2023 17:36:57	N/A	Westpac	Home Loan	Rocket - Housing Loan Variable - MSS
Customer 286	Customer 431	WOH.0001.0109.0727	07/03/2023 10:54:16	28/03/2023 10:54:16	Unknown – Westpac did not find a response	Westpac	Personal Loan	Unsecured Personal Loan 1 years
Customer 287	Customer 434	WOH.0001.0109.0834	17/04/2023 10:55:55	08/05/2023 10:55:55	09/05/2023	Westpac	Home Loan	Fixed Option Home Loan - MSS
Customer 288	Customer 435	WOH.0001.0109.0835	17/04/2023 14:47:05	08/05/2023 14:47:05	24/05/2023	Westpac	Home Loan	Flexi First Option Home Loan

Annexure B : Breach report and breach report updates lodged with ASIC in relation to System Failure A¹⁴²

No.	Lodgement Date	Report type	Document ID
1.	3 March 2022	Breach Report	WFH.0003.0001.0035
2.	31 March 2022	Breach Report Update	WFH.0003.0001.0086
3.	29 April 2022	Breach Report Update	WFH.0003.0001.0107
4.	24 May 2022	Breach Report Update	WFH.0003.0001.0128
5.	27 May 2022	Breach Report Update	WFH.0003.0001.0150
6.	5 July 2022	Breach Report Update	WFH.0003.0001.0004
7.	2 December 2022	Breach Report Update	WFH.0003.0001.0054
8.	23 March 2023	Breach Report Update	WFH.0003.0001.0307
9.	19 June 2023	Breach Report Update	WFH.0003.0001.0172
10.	27 July 2023	Breach Report Update	WFH.0003.0001.0674
11.	18 December 2023	Breach Report Update	WOH.7000.0020.0001 WOH.7000.0023.0001

¹⁴² INC000190597.

Annexure C : Breach report and breach report updates lodged with ASIC in relation to System Failure B¹⁴³

No.	Lodgement Date	Report type	Document ID
1.	5 April 2023	Breach Report	WFH.0003.0001.0339
2.	5 May 2023	Breach Report Update	WFH.0003.0001.0381
3.	1 June 2023	Breach Report Update	WFH.0003.0001.0203
4.	28 July 2023	Breach Report Update	WFH.0003.0001.0707
5.	9 October 2023	Breach Report Update	WFH.0003.0001.1115
6.	18 December 2023	Breach Report Update	WOH.7000.0021.0019

¹⁴³ INC000222363.

Annexure D : Breach report and breach report updates lodged with ASIC in relation to System Failure C¹⁴⁴

No.	Lodgement Date	Report type	Document ID
1.	21 June 2023	Breach Report	WFH.0003.0001.0533
2.	4 August 2023	Breach Report Update	WFH.0003.0001.0827
3.	31 October 2023	Breach Report Update	WFH.0003.0001.1216
4.	20 December 2023	Breach Report Update	WOH.7000.0021.0066

¹⁴⁴ INC000230959.

Annexure E : Breach report and breach report updates lodged with ASIC in relation to System Failure D¹⁴⁵

No.	Lodgement Date	Report type	Document ID
1.	21 June 2023	Breach Report	WFH.0003.0001.0503
2.	20 July 2023	Breach Report Update	WFH.0003.0001.0642
3.	30 August 2023	Breach Report Update	WFH.0003.0001.0865
4.	19 December 2023	Breach Report Update	WOH.7000.0021.0087

¹⁴⁵ INC000232212.

Annexure F : Breach report and breach report updates lodged with ASIC in relation to Operational Failure A¹⁴⁶

No.	Lodgement Date	Report type	Document ID
1.	18 May 2023	Breach Report	WFH.0003.0001.0423
2.	31 July 2023	Breach Report Update	WFH.0003.0001.0731
3.	31 October 2023	Breach Report Update	WFH.0003.0001.1189
4.	20 December 2023	Breach Report Update	WOH.7000.0021.0039

¹⁴⁶ INC000228842.

Annexure G : Breach report and breach report updates lodged with ASIC in relation to Operational Failure B¹⁴⁷

No.	Lodgement Date	Report type	Document ID
1.	21 June 2023	Breach Report	WFH.0003.0001.0552
2.	27 October 2023	Breach Report Update	WFH.0003.0001.1236
3.	19 December 2023	Breach Report Update	WOH.7000.0021.0120

¹⁴⁷ INC000234409.

Annexure H : Breach report and breach report updates lodged with ASIC in relation to Operational Failure C¹⁴⁸

No.	Lodgement Date	Report type	Document ID
1.	11 January 2023	Breach Report	WOH.0001.0087.0001
2.	17 February 2023	Breach Report Update	WOH.0001.0087.0020
3.	16 March 2023	Breach Report Update	WOH.0001.0087.0041
4.	14 April 2023	Breach Report Update	WFH.0003.0001.0362
5.	12 May 2023	Breach Report Update	WFH.0003.0001.0403
6.	9 June 2023	Breach Report Update	WFH.0003.0001.0482
7.	6 July 2023	Breach Report Update	WFH.0003.0001.0604
8.	6 July 2023	Breach Report Update	WFH.0003.0001.0623
9.	1 August 2023	Breach Report Update	WFH.0003.0001.0777
10.	29 August 2023	Breach Report Update	WFH.0003.0001.0847
11.	27 September 2023	Breach Report Update	WFH.0003.0001.1062
12.	27 October 2023	Breach Report Update	WFH.0003.0001.1137
13.	20 December 2023	Breach Report Update	WOH.7000.0021.0001

¹⁴⁸ INC000216858.