

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 19/12/2024 9:14:03 AM AEST  
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File Number: QUD755/2024  
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v  
AUSFINANCIAL PTY LTD (ACN 118 176 631)  
Registry: QUEENSLAND REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: To Be Advised  
Time and date for hearing: To Be Advised  
Place: To Be Advised



*Sia Lagos*

Registrar

### Important Information

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

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



## ORIGINATING APPLICATION

Federal Court of Australia  
District Registry: Queensland  
Division: General

No. QUD of 2024

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Applicant

### AUSFINANCIAL PTY LTD (ACN 118 176 631)

Respondent

To the Respondent

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

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

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

**Time and date for hearing:**

**Place:** Commonwealth Law Courts Building, 119 North Quay, Brisbane

Date: December 2024

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

Filed on behalf of (name & role of party) Australian Securities and Investments Commission, Applicant

Prepared by (name of person/lawyer) Nathalie Pietsch, Lawyer, ASIC

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**Address for service** Level 7, 120 Collins Street  
(include state and postcode) Melbourne, Victoria, 3000



## Details of claim

For the purposes of this application:

**Credit Act** means the *National Consumer Credit Protection Act 2009* (Cth).

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

This application is made under sections 128, 130(1), 131(1), 133(1), 166, 167 and 182 of the Credit Act and sections 994C(4), 1101B, 1317E, 1317G and 1324 of the Corporations Act.

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant claims:

1. a declaration pursuant to section 166 of the Credit Act that the Respondent, in respect of the consumers and credit contracts listed in Schedule A to the Statement of Claim, failed to make reasonable inquiries about the consumers' requirements and objectives in relation to those credit contracts, failed to make reasonable inquiries about the consumers' financial situation, and/or failed to take reasonable steps to verify the consumers' financial situation, before making the assessment prescribed by section 128 of the Credit Act, in contravention of section 130(1) of the Credit Act;
2. a declaration pursuant to section 166 of the Credit Act that the Respondent, in respect of the consumers and credit contracts listed in Schedule A to the Statement of Claim, failed to make the inquiries and verification required by section 130 of the Credit Act within the 90 days before entering into those credit contracts, in contravention of section 128 of the Credit Act;
3. a declaration pursuant to section 166 of the Credit Act that the Respondent, in respect of the consumers and credit contracts listed in Schedule A to the Statement of Claim, failed to assess the credit contracts as unsuitable in circumstances where those consumers were unable to comply with their financial obligations under the contract, or could only comply with substantial hardship, and/or the contract would not meet the consumers' requirements and objectives, in contravention of section 131(1) of the Credit Act;
4. a declaration pursuant to section 166 of the Credit Act that the Respondent, in respect of the consumers and credit contracts listed in Schedule A to the Statement of Claim, entered into those contracts in circumstances where the contract was unsuitable for the consumers, in contravention of section 133(1) of the Credit Act;



5. an order pursuant to section 167 of the Credit Act that the Respondent pay a pecuniary penalty in respect of the contraventions of sections 128, 130(1), 131(1) and 133(1) of the Credit Act;
6. an order pursuant to section 182 of the Credit Act that, within 30 days of the order, the Respondent take all reasonable steps to cause to be published, at its own expense, a notice stating that it has been ordered to pay a pecuniary penalty because of its contraventions of sections 128, 130(1), 131(1) and 133(1) of the Credit Act in a manner and form approved by the Court.
7. a declaration pursuant to section 1317E, or further or alternatively s 1101B, of the Corporations Act that the Respondent, in respect of the target market determinations and each of the review triggers listed in Schedule B to the Statement of Claim, on each occasion, failed within 10 business days to cease engaging in retail product distribution conduct, review the relevant target market determination or make a new target market determination, in contravention of section 994C(4) of the Corporations Act;
8. an order pursuant to section 1317G of the Corporations Act that the Respondent pay a pecuniary penalty in respect of the contraventions of section 994C(4) of the Corporations Act;
9. an order pursuant to s 1101B and/or s 1324 of the Corporations Act that, within 30 days of the order, the Respondent take all reasonable steps to cause to be published, at its own expense, a notice stating that it has been ordered to pay a pecuniary penalty because of its contraventions of section 994C(4) of the Corporations Act in a manner and form approved by the Court;
10. an order that the Respondent pay the Applicant's costs; and
11. such further or other orders as the Court considers appropriate.

### **Applicant's address**

The Applicant's address for service is:

Australian Securities and Investments Commission  
Level 20, 240 Queen Street  
Brisbane Qld 4000  
nathalie.pietsch@asic.gov.au

The Applicant's address is - Level 20, 240 Queen Street, Brisbane, Queensland



**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: 19 December 2024

*N Pietsch*

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Signed by Nathalie Pietsch  
Solicitor for the Applicant