NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2

Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)

Date of Lodgment: 24/07/2024 2:52:30 PM AEST Date Accepted for Filing: 24/07/2024 3:55:08 PM AEST

File Number: VID720/2024

File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v

COFCO INTERNATIONAL AUSTRALIA PTY LTD

Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Registrar

Sia Lagos

Important Information

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

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



Form 2 Rule 2.2

Originating process

Federal Court of Australia No. VID of 2024

District Registry: Victoria

Division: General

Commercial and Corporations NPA

Australian Securities and Investments Commission

Plaintiff

COFCO International Australia Pty Ltd (ACN 001 069 423)

First Defendant

COFCO Resources SA

Second Defendant

A. Details of application

This application is made under sections 1317E and 1317G(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**).

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

For the purposes of this Originating Process, the following terms have the following meanings:

- A. ASX means Australian Securities Exchange Limited.
- B. **ASX 24** means the electronic trading platform known as "ASX 24" operated by ASX in Australia for the trading of, among other things, WMF3 contracts.
- C. **DSP** means the Daily Settlement Price for WMF3 contracts as calculated by ASX on each trading day, immediately following the close of the Day Session at 4:30pm, for the purpose of margining and settling by ASX Clear (Futures) Pty Ltd.
- D. **WMF3 contract** means an Eastern Australia Wheat Futures Contract for wheat deliverable in January 2023, as authorised by ASX for trading on ASX 24.

| Filed on behalf of (name & role of party) | | Australian Securities and Investments Commission (Plaintiff) | |
|---|----------|--|--|
| Prepared by (name of person/lawyer) | | John Fogarty | |
| Law firm (if applicable) D | LA Piper | | |
| Tel +61 3 9274 5080 | | Fax +61 3 9274 5111 | |
| Email john.fogarty@dlapiper.com | | | |
| Address for service 80 Collins S | | Street | |
| (include state and postcode) | MELBOURN | RNE VIC 3000 | |



On the facts stated in the accompanying Concise Statement, the plaintiff claims:

- 1. Declarations pursuant to section 1317E of the Corporations Act that each of the defendants, between 17 January 2022 and 3 March 2022, on each of the occasions specified in the Annexure to the Concise Statement:
 - (a) caused an offer to be made for the second defendant to enter into a WMF3 contract, as seller, through ASX 24, on which platform ASX operated a financial market for trading WMF3 contracts; and
 - (b) did so for a sole or dominant purpose, or alternatively a purpose, being to affect the outcome of ASX's calculation of the DSP, such that the DSP would be lower than it otherwise would be, which purpose was not disclosed.

and thereby contravened:

- (c) section 1041A of the Corporations Act, by taking part in, or carrying out, a transaction that had or was likely to have the effect of creating an artificial price for trading, or maintaining at a level that was artificial a price for trading, in WMF3 contracts on ASX 24; and
- (d) section 1041B(1) of the Corporations Act, by doing, or omitting to do, an act that had or was likely to have the effect of creating, or causing the creation of, a false or misleading appearance with respect to the market for, or the price for trading in, WMF3 contracts on ASX 24.
- 2. An order pursuant to section 1317G(1) of the Corporations Act that each of the defendants pay to the Commonwealth such pecuniary penalties as the Court determines appropriate in relation to the contraventions of sections 1041A and 1041B(1) of the Corporations Act referred to in paragraph 1 above.
- 3. An order that the defendants pay the plaintiff's costs of, and incidental to, this proceeding.
- 4. Such further or other orders as the Court considers appropriate.

Date: 24 July 2024

John Fogarty

for and on behalf of DLA Piper

Lawyer for the Plaintiff

This application will be heard by the Federal Court of Australia at 305 William Street Melbourne at*am/*pm on2024.



B. NOTICE TO DEFENDANTS

TO: COFCO International Australia Pty Ltd c/- MinterEllison
Level 20, Collins Arch
447 Collins Street
Melbourne, VIC 3000

COFCO Resources SA
c/- MinterEllison
Level 20, Collins Arch
447 Collins Street
Melbourne, VIC 3000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

(a) the application may be heard and final relief given;

This originating process is filed by DLA Piper for the plaintiff.

- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note: Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

| Date of filing: | |
|-----------------|-----------|
| 3 | |
| | Registrar |



D. SERVICE

The plaintiff's address for service is:

Place: DLA Piper

80 Collins Street

Melbourne VIC 3000

Email: john.fogarty@dlapiper.com

It is intended to serve a copy of this originating process on each defendant.