

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: 20/09/2023 4:39:46 PM AEST
Date Accepted for Filing: 20/09/2023 4:48:38 PM AEST
File Number: NSD1039/2023
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v BIT
TRADE PTY LTD ACN 163 237 634
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

Registrar

Important Information

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

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



Originating Process

No. NSD of 2023

Federal Court of Australia
District Registry: New South Wales
Division: Commercial and Corporation

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

BIT TRADE PTY LTD (ACN 163 237 634)

Defendant

A. DETAILS OF APPLICATION

This application is made under sections 19 and 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**) and sections 1101B, 1317E, 1317G and 1324 of the *Corporations Act 2001* (Cth) (**Corporations Act**).

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

On the facts stated in the accompanying concise statement, the Plaintiff seeks:

Declaration of Contravention

- 1 A declaration pursuant to section 1317E(1) of the Corporations Act or section 21(1) of the FCA Act that since 5 October 2021 the Defendant contravened section 994B(2) of the Corporations Act by engaging in retail product distribution conduct in relation to a financial product known as "Margin Extensions" (**Product**) without first making a target market determination for the Product.

Penalties

- 2 An order pursuant to section 1317G(1) of the Corporations Act that, within 30 days of the order, the Defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of the Defendant's conduct declared to

Filed on behalf of (name & role of party)	The Plaintiff, Australian Securities and Investments Commission		
Prepared by (name of person/lawyer)	Conrad Gray, Lawyer		
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Address for service	Level 5, 100 Market Street, Sydney, NSW, 2000		



contravene section 994B(2) of the Corporations Act occurring from 5 October 2021 and continuing as at the date of this Originating Process.

Injunctive and other relief

- 3 An order under section 1324(1) of the Corporations Act that the Defendant be restrained from making available the Product until it has complied with sections 994B(1) and 994B(9) of the Corporations Act or further order.
- 4 An order under section 1101B(1) or 1324(1) of the Corporations Act that the Defendant be restrained from continuing to make the Product available to or permitting the Product to be used by any customer of the Defendant who is based in Australia and who used the Product at any time during the period from 5 October 2021 until the date of any such order (an **Existing Client**), until and unless the Defendant:
 - (a) has complied with sections 994B(1) and 994B(9) of the Corporations Act; and
 - (b) has assessed the Existing Client as being a person who falls within the target market described in that target market determination.
- 5 Such further orders under section 1101B(1) or 1324(1) of the Corporations Act as the Court considers appropriate in respect of the relief sought above.
- 6 An order that the Defendant pay the Plaintiff's costs of and incidental to the proceeding.
- 7 Such further or other orders as the Court considers appropriate.

Date: 20 September 2023

Conrad Gray
Lawyer for the Plaintiff

This application will be heard by at 184 Phillip Street, Queens Square, NSW, 2000 at *am/*pm on

**B. NOTICE TO DEFENDANT**

TO: Bit Trade Pty Ltd (ACN 163 237 634)
Unit 610, 478 George Street
Sydney NSW 2000

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

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

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

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

D. FILING

Date of filing:

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Registrar

This originating process is filed by the Plaintiff.

E. SERVICE

The plaintiff's address for service is:

Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney, NSW 2000
Email: conrad.gray@asic.gov.au

It is intended to serve a copy of this originating process on the Defendant.

