

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: 15/12/2022 8:30:33 AM AEST
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File Number: QUD467/2022
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
FIRSTMAC LIMITED (ACN 094 145 963)
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.

Form 2



Originating process

(rules 2.2 and 15A.3)

No. of 2022

Federal Court of Australia
District Registry: Queensland
Division: General

IN THE MATTER OF FIRSTMAC LIMITED
ACN 094 145 963

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Plaintiff

FIRSTMAC LIMITED (ACN 094 145 963)
Defendant

A. DETAILS OF APPLICATION

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

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

In this Originating Process, terms which are defined in the Concise Statement dated 15 December 2022 have the same meaning as they do in that document.

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

Declarations

1. A declaration pursuant to section 21(1) of the FCA Act and section 1317E(1) of the Corporations Act that, during the period 5 October 2021 to 9 September 2022, Firstmac contravened s 994E(3) of the Corporations Act on 870 occasions by:

Filed on behalf of: the Plaintiff, Australian Securities and Investments Commission

Prepared by Gina Wilson GLW:9099555

Law firm: **Maddocks** Lawyers

Tel 03 9258 3555

Fax: 03 9258 3666

Email gina.wilson@maddocks.com.au

Address for service Collins Square, Tower Two, Level 25, 727 Collins Street Melbourne VIC 3008



- (a) engaging in retail product distribution conduct by giving the PDS for High Livez to 817 Firstmac Term Deposit Holders, without taking reasonable steps that would have resulted in, or would have been reasonably likely to have resulted in, that retail product distribution conduct being consistent with the TMD.

Civil penalty

2. An order under s 1317G(1) of the Corporations Act that, within 30 days of the order, Firstmac pay to the Commonwealth of Australia such pecuniary penalties in respect of Firstmac's conduct declared to be contraventions of section 994E(3) of the Corporations Act during the period 5 October 2021 to 9 September 2022.

Other orders

3. An order under s 1101B(1) of the Corporations Act requiring Firstmac, within such timeframe and in such manner as the Court considers appropriate, to:
- (a) have in place appropriate systems, policies and procedures for its directors, officers, employees and representatives to ensure that Firstmac complies with section 994E(3) of the Corporations Act in relation to Firstmac's retail product distribution conduct for the Firstmac High Livez ARSN 147 322 923 managed investment scheme;
 - (b) at its own cost and within 3 months of the date of these Orders, provide the Plaintiff with a written report of a suitably qualified independent expert confirming Firstmac's compliance with Order 3(a); and
 - (c) agree with the Plaintiff on the identity of the independent expert and the terms of his or her retainer or, failing agreement, those matters be determined by the Court.
4. An order that Firstmac pay the Plaintiff's costs of and incidental to the proceeding.
5. Such further or other orders as the Court considers appropriate.

Date: 15 December 2022

A handwritten signature in black ink, appearing to be 'Gina Wilson', written over a horizontal line.

Signature of Gina Wilson, Maddocks

Lawyer for the Plaintiff



This application will be heard by at the Federal Court of Australia, Harry Gibbs Commonwealth Law Courts Building, 119 North Quay, Brisbane QLD 4000 atam/pm on

B. NOTICE TO DEFENDANT

TO: Firstmac Limited
Riverside Centre
Level 40
123 Eagle Street, BRISBANE QLD 4000

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

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

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

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

C. FILING

Date of filing:

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



This originating process is filed by Maddocks for the Plaintiff.

D. SERVICE

The Plaintiff's address for service is:

Maddocks

Collins Square, Tower Two, Level 25, 727 Collins Street

Melbourne VIC 3008

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