

FREQUENTLY ASKED QUESTIONS

15 September 2021

General

1. I want to participate. What do I need to do?

If you are a group member and wish to participate in the Westpac Securities Class Action, you do not need to do anything at this time.

If the Court makes orders to establish a process for the submission of details about your individual claim, the Court will also make orders providing for group members to be notified of that process and any steps group members are required to take.

If you wish to receive updates about the case, including notification by Phi Finney McDonald if the court orders group members to formally register and provide details of each claim, please register your name and contact details at the following link

– <https://phifinneymcdonald.com/register-interest/>

We will send updates regarding major steps in the Westpac Securities Class Action to the email address you provide, including Court-ordered information.

2. I want to opt out

The deadline to opt out of the Westpac Securities Class Action (and no longer be a group member) was 8 September 2021.

If there is a successful outcome in the class action, group members will be notified of their options in relation to that outcome.

Group Members and Eligibility

3. Am I a group member?

A group member in the Westpac Securities Class Action is a person or entity who suffered loss or damage as a result of Westpac's alleged misconduct and having acquired an interest in Westpac Shares between 16 December 2013 and 19 November 2019 (inclusive) (**Claim Period**) including:

- (a) Westpac shares on the ASX or NZX (including via a capital raising);
- (b) Westpac American Depositary Receipts; or
- (c) long exposure equity swap confirmations for Westpac shares.

However, the following persons and entities are not eligible to participate:

- (a) a related party, related body corporate, associated entity or officer of Westpac, or a director or secretary of a Westpac related body corporate;
- (b) a judge of the Federal or High Court of Australia
- (c) an officer, employee, or legal practitioner engaged by Phi Finney McDonald in relation to the class action; or
- (d) an expert or consultant engaged in relation to the class action.

Liability limited by a scheme approved under Professional Standards Legislation.

As the determination of loss or damage is a matter for expert evidence and the Court, group members do not need to establish loss or damage at this stage of the proceeding in order to participate (however, see Question 6 below if you inherited your shares).

Please note that the parties to the class action and their lawyers do not have a list of all group members, and cannot confirm for you whether you are a group member or not. To date, all notices ordered by the Court to be sent to group members have been distributed by one of Westpac's share register operators to persons and entities listed as having acquired one or more of the types of Westpac Shares listed above.

4. I am or was an employee of Westpac or a subsidiary. Am I a group member?

If you are a current or former Westpac employee you are a group member if you acquired an interest in Westpac shares during the Claim Period and you have **not** been, at any time from 16 December 2013:

- (a) a director or company secretary of Westpac;
- (b) a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of Westpac, or who has the capacity to affect significantly Westpac's financial standing, or a person in accordance with whose instructions or wishes the directors of the Westpac are accustomed to act; or
- (c) a director or secretary of a related body corporate of Westpac.

5. I acquired shares through a Westpac employee share scheme. Am I a group member?

Yes, so long as you acquired the shares during the Claim Period and are not excluded (see questions 3 and 4).

For the purpose of any assessment of recoverable loss, shares acquired under an employee share scheme may be treated differently to other share acquisitions. This will be a matter for expert evidence and the Court. That does not affect your status as a group member for present purposes.

6. I inherited my shares. Am I a group member?

If you only acquired an interest in Westpac shares during the Claim Period because you inherited those shares (or they were otherwise given to you as a gift), you are not a group member, because you did not acquire or purchase the interest at the alleged inflated price, and therefore cannot establish loss or damage.

However, if you were bequeathed some Westpac shares and you also separately acquired an interest in *other* Westpac shares during the Claim Period, including via a dividend reinvestment scheme (DRP) or a capital raising, then you are a group member for those other, non-inherited shares.

7. My shares were acquired via a dividend reinvestment program (DRP). Am I a group member?

Yes, so long as you acquired the shares during the Claim Period.

For the purpose of any assessment of recoverable loss, shares acquired under a DRP may be treated differently to other share acquisitions. This will be a matter for expert evidence and the Court. That does not affect your status as a group member for present purposes.

8. I have not sold my shares. Am I a group member?

Yes, if you acquired the shares during the Claim Period. You do not need to have sold your shares to be a group member.

9. I have sold my shares. Am I a group member?

Yes, if you acquired the shares during the Claim Period. You do not need to have retained your Westpac shares to be a group member.

For the purpose of loss assessments, shares sold during the Claim Period may be considered in the calculation. This will be a matter for expert evidence and the Court. That does not affect your status as a group member for present purposes.

Costs and Recovery

10. What does it cost me to participate? What are the funder and lawyers paid?

You will not be liable for any out-of-pocket costs.

If the class action results in an award of damages or settlement amount payable by Westpac (**Resolution Sum**), then the litigation funder Woodsford Litigation Funding will be entitled to a payment of up to 9% of the Resolution Sum, subject to any order of the Court. That amount will be used to pay the cost of the proceeding (including legal fees) and provide a return to the funder.

Group members who have signed funding litigation agreements with Woodsford have agreed to pay this amount of up to 9% of the Resolution Sum between them. However, the Applicant has agreed with Woodsford to seek orders from the Court that these costs be shared among all group members. If the Court makes a costs-sharing order, then all group members will contribute to the 9% (or such other amount as fixed by the Court) on a pro-rata basis, with the remaining amount of at least 91% being distributed to eligible group members on a pro-rata basis.

If the class action does not result in a judgment or settlement payable by Westpac, you will not be liable to pay any amount.

11. Will I be entitled to compensation, and if so how much?

It is too early to answer this question. If the class action concludes in a judgment against Westpac, your entitlement to compensation will be determined by the Court. If the class action concludes in a settlement, your entitlement will be determined as part of the settlement.

Class action settlements must be approved by the Court as fair and reasonable, including as to any amounts payable to the litigation funder and for legal costs.

Documents and More Information

12. Where can I get copies of the pleadings and court documents?

Download the pleadings and key court documents from the following links:

- Amended Originating Application dated 12 May 2020 is here <https://phifinneymcdonald.com/content/uploads/1-Amended-Originating-Application.pdf>

- Amended Statement of Claim dated 12 May 2020 is here <https://phifinney-mcdonald.com/content/uploads/2-Amended-Statement-of-Claim.pdf>
- Westpac's Defence dated 10 July 2020 is here <https://phifinney-mcdonald.com/content/uploads/3-Westpacs-Defence.pdf>

13. My question has not been answered. Can I speak to a lawyer?

If you have a question that is not addressed above, please email westpac@pfm.law.