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Registrar

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Form 17  
Rule 8.05(1)(a)

**SECOND AMENDED STATEMENT OF CLAIM**

No.1373 of 2019

Federal Court of Australia  
District Registry: Victoria  
Division: General

**EDMUND HOW FEN YONG**

Applicant

**WESTPAC BANKING CORPORATION (ACN 007 457 141)**

Respondent

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## A. INTRODUCTION

### A.1 The Applicant and the Group Members

1. This proceeding is commenced as a representative proceeding pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth) by the Applicant on its own behalf and on behalf of all persons who or which:

(a) during the period:

(i) between ~~30 June 2014~~~~16 December 2013~~ and 19 November 2019 (inclusive) (**Relevant Period**), acquired an interest in:

(A) fully paid ordinary shares in Westpac Banking Corporation (**Westpac Shares**); and/or

(B) American Depositary Receipts that represent Westpac Shares (**Westpac ADRs**); and/or

(ii) between ~~16 December 2013~~ ~~30 June 2014~~ to 19 November 2019 (inclusive), ~~alternatively, 12 March 2014 to 19 November 2019 (inclusive)~~ (~~Swaps Relevant Period~~), acquired an interest in long exposure to Westpac Shares by entering into equity swap confirmations in respect of the Westpac Shares (**Westpac Swaps**),

(together, **Westpac Securities**);

(b) have suffered loss or damage by reason of the conduct of the Respondent (**Westpac**) pleaded in this Statement of Claim; and

(c) were not during any part of the Relevant Period, and are not as at the date of this Statement of Claim, any of the following:

(i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) (**Corporations Act**) of Westpac;

(ii) a related body corporate (as defined by s 50 of the *Corporations Act*) of Westpac;

- (iii) an associated entity (as defined by s 50AAA of the Corporations Act) of Westpac;
- (iv) an officer or ~~a close~~ associate (as defined by ~~s~~ ss 9 and 11 of the Corporations Act) of Westpac; and
- (v) a judge or the Chief Justice of the Federal Court of Australia or a Justice or the Chief Justice of the High Court of Australia;
- (vi) an officer or employee of, or other legal practitioner engaged by, Phi Finney McDonald Pty Ltd in relation to this proceeding; or
- (vii) an expert or consultant engaged in relation to this proceeding,

**(Group Members).**

2. The Applicant:

- (a) is and was at all material times a resident of the State of New South Wales; and
- (b) acquired an interest in Westpac Shares during the Relevant Period.

**Particulars**

*i) Details of the particular acquisitions of Westpac Shares by the Applicant are set out below:*

<b>Date</b>	<b>Transaction type</b>	<b>Number of Westpac Shares</b>	<b>Price</b>
20/11/15	Acquisition on ASX	73	\$25.50
4/5/17	Acquisition on ASX	8,000	\$34.00

3. Immediately prior to the commencement of this proceeding, the group, on whose behalf this proceeding is brought, comprised more than seven persons.

## A.2 The Respondent

### A.2.1 Introduction

4. Westpac is and at all material times was:
- (a) incorporated pursuant to the Corporations Act and capable of being sued;
  - (b) a person within the meaning of s 1041H of the Corporations Act;
  - (c) a person within the meaning of s 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**);
  - (d) a person within the meaning of s 18 of the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**CCA**), as applicable pursuant to:
    - (i) s 131 of the CCA;
    - (ii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT);
    - (iii) s 28 of the *Fair Trading Act 1987* (NSW);
    - (iv) s 8 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic);
    - (v) s 16 of the *Fair Trading Act 1989* (Qld);
    - (vi) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);
    - (vii) s 19 of the *Fair Trading Act 2010* (WA);
    - (viii) s 14 of the *Fair Trading Act 1987* (SA); and/or
    - (ix) s 27 of the *Consumer Affairs and Fair Trading Act* (NT),as in force after 1 January 2011 (individually, or together, the **Australian Consumer Law**).

## **B. WESTPAC'S BUSINESS**

### **B.1 Westpac's Business**

5. At all material times, Westpac carried on business as a provider of integrated financial services, including retail, business and institutional banking, superannuation, life insurance, general insurance, broking services and finance services, including in Australia, New Zealand and the Pacific Region.
6. Westpac is and at all material times was the consolidated reporting entity for Westpac and its subsidiaries, within the meaning of Australian Accounting Standard AASB127 (Consolidated and Separate Financial Statements) (**Westpac Group**).
7. Westpac is and was at all material times:
  - (a) licensed to carry on banking business in Australia under the *Banking Act 1959* (Cth);
  - (b) authorised under the *Banking Act 1959* (Cth) to take deposits from customers, as an Authorised Deposit-Taking Institution (**ADI**) under the *Banking Act 1959* (Cth);
  - (c) subject to the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (the **AML/CTF Act**) and the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (Cth) (**AML/CTF Rules**), and:
    - (i) a “person” and “reporting entity” within the meaning of s 5 of the AML/CTF Act; and
    - (ii) a provider of designated services to customers within the meaning of s 6 of the AML/CTF Act.

#### **Particulars**

*Westpac provides, among others, the following designated services as identified in s 6 of the AML/CTF Act:*

- i) *Item 1, Table 1 – in the capacity of account provider, opening an account, where the account provider is an ADI.*
- ii) *Item 2, Table 1 – in the capacity of account provider for a new or existing account, allowing a person to become a signatory to the account, where the account provider is an ADI.*
- iii) *Item 3, Table 1 – in the capacity of account provider for an account, allowing a transaction to be conducted in relation to the account, where the account provider is an ADI.*
- iv) *Item 29, Table 1 – in the capacity of an ordering institution, accepting an electronic funds transfer instruction from the payer.*
- v) *Item 30, Table 1 – in the capacity of a beneficiary institution, making money available to a payee as a result of an electronic funds transfer instruction.*

#### **B.1.01 Westpac's relevant business units and compliance systems**

7A. At all material times, Westpac had (inter alia) the following business divisions and units:

- (a) Westpac Institutional Bank (WIB); and
- (b) Global Transaction Services (GTS), a business unit within WIB.

7B. At all material times, Westpac's framework for managing compliance with legislative requirements, including compliance with the AML/CTF Act and the AML/CTF Rules, adopted a "three lines of defence" model under which:

- (a) the "first line of defence" comprised Westpac's business divisions and their management;
- (b) the "second line of defence" comprised:
  - (i) divisional risk and compliance teams, including divisional Chief Compliance Officers (as those positions existed from time to time) and divisional Chief Risk Officers; and

- (ii) the group risk and compliance function, including the Chief Compliance Officer (as that position existed from time to time) and the group Chief Risk Officer; and
- (c) the “third line of defence” comprised Westpac’s Group Assurance unit (also known as Group Audit), which was an independent assurance function responsible for evaluating the adequacy and effectiveness of the first and second lines of defence.

#### **Particulars**

- i) Compliance Management Framework, version 4.0 (April 2013) (WBC.0201.0067.3195 at .3205–.3206).*
- ii) Operational Risk Management Framework, version 18 (January 2016) (WCA.2001.0031.1314 at .1327–.1331).*
- iii) Compliance Management Framework, version 9 (November 2018) (WCA.2000.0122.4501 at .4512–.4514).*
- iv) Operational Risk Management Framework, version 21 (March 2018) (WCA.2000.0065.2990 at .3001–.3004).*

7C. At all material times from around June 2014, Westpac had in place policies and procedures for identifying, escalating and remediating instances of non-compliance with legislative requirements, including compliance with the AML/CTF Act and the AML/CTF Rules (Incident Management Policies).

#### **Particulars**

- i) Incident Management Procedures and Guidance, version 2.8 (June 2014) (WBC.050.148.5337);*
- ii) Incident Management Procedures and Guidance, version 2.9 (December 2015) (WCA.8007.0057.0218);*

- iii) [Incident Management Procedures and Guidance, version 3.0 \(June 2017\) \(WCA.3001.0380.0001\);](#)
- iv) [Incident Management Procedures and Guidance, version 3.1 \(June 2017, updated October 2017\) \(WCA.3001.0380.0067\);](#)
- v) [Incident Management Procedures and Guidance, version 3.2 \(June 2017, updated November 2017\) \(WCA.2000.0071.8707\);](#)
- vi) [Incident Management Policy, version 1.0 \(January 2018\) \(WCA.3001.0124.6451\);](#)
- vii) [Incident Management Policy, version 1.1 \(January 2018, updated 26 March 2018\) \(WCA.2005.0150.4215\);](#)
- viii) [Incident Management Policy, version 1.2 \(January 2018, updated 27 April 2018\) \(WCA.3001.0380.0161\);](#)
- ix) [Incident Management Policy, version 1.3 \(18 June 2018\) \(WCA.3001.0380.0133\);](#)
- x) [Incident Management Policy, version 1.4 \(6 September 2018\) \(WCA.3001.0380.0147\);](#)
- xi) [Incident Management Policy, version 1.5 \(21 January 2019\) \(WCA.3003.0230.1696\);](#)
- xii) [Incident Management Policy, version 1.6 \(1 July 2019\) \(WCA.3001.0380.0175\).](#)

7D. [Westpac used the following systems to record compliance incidents and to track their assessment and resolution:](#)

- (a) [at all material times until around April 2017, ACCORD;](#)
- (b) [at all material times from around April 2017, JUNO.](#)

## **Particulars**

Letter from Westpac to AUSTRAC dated 26 July 2019 (WCA.2100.0001.5881 at .6419).

### **7E. The Incident Management Policies:**

- (a) from around June 2014 to 31 January 2018, required all breaches or potential breaches of legal requirements:
  - (i) to be reported to the Group Money Laundering Reporting Officer and recorded in ACCORD or JUNO, regardless of financial impact;
  - (ii) to be classified as “extreme” (in the case of breaches of the AML/CTF Act or AML/CTF Rules); alternatively, “high”, “very high” or “extreme”, depending on their actual or potential financial impact; and
  - (iii) to have (*inter alia*) the following “mandatory stakeholders” assigned to the incident:
    - (A) the Chief Compliance Officer and Group General Counsel (for incidents classified “high” or above);
    - (B) the Group Chief Risk Officer (for incidents classified “very high” or above); and
    - (C) the Chief Executive Officer (for incidents classified “extreme”);

## **Particulars**

- i)* Incident Management Procedures and Guidance, version 2.8 (June 2014) at [2.5], Appendix 6–7 (WBC.050.148.5337 at .5346, .5379–.5380);
- ii)* Incident Management Procedures and Guidance, version 2.9 (December 2015) at [2.5], [5], Appendix 6 (WCA.8007.0057.0218 at .0228, .0245, .0268);



- (A) the Chief Compliance Officer and Group General Counsel (for incidents classified “high” or above);
- (B) the Group Chief Risk Officer (for incidents classified “very high” or above); and
- (C) the Chief Executive Officer (for incidents classified “severe”).

### **Particulars**

- i) Incident Management Policy, version 1.0 (January 2018) at [1.3], Appendix 1, Appendix 2 (WCA.3001.0124.6451 at .6453, .6459, .6460);
- ii) Incident Management Policy, version 1.1 (January 2018, updated 26 March 2018) at [1.3], Appendix 1, Appendix 2 (WCA.2005.0150.4215 at .4217, .4223, .4224);
- iii) Incident Management Policy, version 1.2 (January 2018, updated 27 April 2018) at [1.2], Appendix 1, Appendix 2 (WCA.3001.0380.0161 at .0163, .0169, .0170);
- iv) Incident Management Policy, version 1.3 (18 June 2018) at [1.2], Appendix 1, Appendix 2 (WCA.3001.0380.0133 at .0135, .0141, .0142);
- v) Incident Management Policy, version 1.4 (6 September 2018) at [2.1], Appendix 1, Appendix 2 (WCA.3001.0380.0147 at .0150, .0155, .0156);
- vi) Incident Management Policy, version 1.5 (21 January 2019) at [2.1], Appendix 1, Appendix 2 (WCA.3003.0230.1696 at .1699, .1703, .1704);
- vii) Incident Management Policy, version 1.6 (1 July 2019) at [2.1], Appendix 1, Appendix 2 (WCA.3001.0380.0175, .0178, .0183, .0184).

### **B.1.1 Westpac's Correspondent Banking Relationships and LitePay**

8. At all material times, Westpac had ~~entered into~~ Correspondent Banking Relationships (within the meaning of section 5 of the AML/CTF Act and Part 3.2 of the AML/CTF Rules) **(Correspondent Banking Relationships)** with:
- (a) the parent entity (Bank A Parent) of Citibank Europe PLC (Citibank) (Bank A);
  - (b) Standard Chartered PLC (SCB) (Bank B);
  - (c) Deutsche Bank AG (Deutsche) (Bank C);
  - (d) Wells Fargo Bank, National Association (Wells Fargo) (Bank D);
  - (e) The Governor and Company of the Bank of Ireland (Bank of Ireland) (Bank E);
  - (f) The Bank of New York Mellon (Bank of New York) (Bank F);
  - (g) a subsidiary of Unibank A/S (now known as BDO Unibank) (Unibank) (Bank G Subsidiary);
  - (h) Development Bank of the Philippines (Bank of the Philippines) (Bank H);
  - (i) United Overseas Bank Limited (United) (Bank I);
  - (j) KEB Hana Bank, South Korean (KEB) (Bank J);
  - (k) JPMorgan Chase Bank (JPMorgan) (Bank K);
  - (l) Barclays Bank PLC (Barclays) (Bank L);
  - (m) Nordea Bank Norge ASA, Nordea Bank Finland PLC, Nordea Bank AB and Nordea Bank Danmark A/S (Nordea Bank) (Bank M);
  - (n) HSBC Bank PLC (HSBC) (Bank N);
  - (o) Silicon Valley Bank (Silicon Valley) (Bank O);
  - (p) Danske Bank A/S (Danske) (Bank P);

~~a number of financial institutions (Correspondent Banks) that carry on activities or business at or through permanent establishments in countries other than Australia (Correspondent Banking Relationships).~~

### Particulars

~~Westpac had Correspondent Banking Relationships with 16 foreign banks. The Applicant refers to and repeats the particulars to paragraph [7] and [8] of the Statement of Claim filed on 20 November 2019 by AUSTRAC in Federal Court of Australia proceeding no. NSD1914/2019 (AUSTRAC SOG).~~

Statement of Agreed Facts and Admissions, Chief Executive of the Australian Transaction Reports and Analysis Centre v Westpac Banking Corporation, No NSD 1914 of 2019 (14 September 2020) (SAFA) [11]-[12].

9. The banking services provided by Westpac to ~~some or all of~~ the Correspondent Banks in the course of facilitating the Correspondent Banking Relationships involved a Vostro account, ~~namely being~~ an account Westpac held ~~by Westpac~~ for the ~~relevant~~ Correspondent Bank in Australian dollars for the purpose of facilitating the settlement of international transactions on behalf of the Correspondent Bank's customers.

### Particulars

- i)* ~~SAFA, [11(e)]. Vostro accounts were provided by Westpac to the Correspondent Banks described in the AUSTROC SOG (at [7]) as Banks A-P inclusive.~~
- ii)* Further particulars may be provided after further discovery.
10. At all material times during the Relevant Period or until the date specified below, Westpac, as part of the Correspondent Banking Relationships, had arrangements with some or all its Correspondent Banks which included:

- (a) Direct Model Australasian Cash Management arrangements (Direct Model ACM Arrangements) with Citibank, SCB, Deutsche, Wells Fargo, Bank of Ireland, and Bank of New York which ceased on:
- (i) 12 November 2018 for Citibank;
  - (ii) 31 January 2019 for Wells Fargo;
  - (iii) 28 February 2019 for Bank of Ireland
  - (v) 31 January 2019 for Bank of New York; and
- (b) Off-system BSB arrangements (OSBSB Arrangements) with SCB and KEB which ceased on:
- (i) 30 September 2019 for SCB; and
  - (ii) 10 January 2020 for KEB.

#### Particulars

##### SAFA, [16].

11. At all material times, the Direct Model ACM Arrangements with Citibank, SCB, Deutsche, Wells Fargo, Bank of Ireland, and Bank of New York:
- (a) involved Westpac providing the Correspondent Bank with a corporate operating account (Direct Model ACM Corporate Operating Accounts);
  - (b) generally:
    - ~~(a)~~(i) allowed the Correspondent Banks to use Westpac's infrastructure to process payments for their overseas and domestic customers through Westpac's direct access to the low value clearing network in Australia or and New Zealand domestic payment systems;
  - ~~(b)~~ generally involved:

- (ii) involved payment instructions being initiated ~~initiation~~ by the customer of the Correspondent Bank using the Correspondent Bank's platform;
- (iii) involved the Correspondent Bank then ~~sending the instructions to Westpac~~ formatting the payment instructions into an agreed structured data file format (**Structured Files**) which:
  - (A) could contain multiple payment instructions; and
  - (B) were unlike most international transfers globally which involve a single payer and a single payee; sending the instructions to Westpac;
- ~~(e)(iv) for a number of ACM Arrangements, the Correspondent Banks using 'batch' funds transfer instructions from multiple payers to multiple payees and sending the instructions to Westpac in a single structured data file, via channels outside of the~~ involved the Structured Files being sent to Westpac via file transfer mechanisms that:
  - (A) allowed the transmission of content that contained less payment information than standard Society for Worldwide Interbank Financial Telecommunication (**SWIFT**) ~~network (non-SWIFT ACM Arrangements)~~ payment messages; and
  - (B) were unlike most international transfers globally which are transmitted through the SWIFT network and must comply with SWIFT messaging format and Guidelines; and
- (c) enabled customers (payers) of Citibank, SCB, Deutsche, Wells Fargo, Bank of Ireland and Bank of New York to make payments to multiple beneficiaries (payees) through a single communication channel.

### Particulars

SAFA, [16], [21]-[22] and [176].

12. At all material times during the Relevant Period, the OSBSB Arrangements with SCB and KEB:

(a) allowed ~~Correspondent Banks~~ SCB and KEB to use Westpac's infrastructure to process payments for their overseas and domestic customers through the Australian payments system in that:

(i) only SCB and KEB (through their authorised signatories) were authorised to direct a transfer of money out of each corporate operating account held with Westpac (OSBSB Settlement Accounts); and

(ii) only SCB and KEB could also transfer money into and out of the Settlement Account held with Westpac in their own right;

(b) involved:

(i) Westpac providing SCB and KEB Sydney branch with a Settlement Account~~the relevant Correspondent Bank opening a Westpac settlement account which is allocated an off-system BSB;~~

(ii) Westpac providing SCB and KEB Sydney branch with an off-system BSB (OSBSB), which permitted SCB and KEB to create multiple sub-accounts and allocate each sub-account with a reference number which could be used as an account number for the purposes of transferring money to the OSBSB account through direct entry~~the relevant Correspondent Bank maintaining customer accounts on its own ledger using the off-system BSB; and~~

(iii) SCB and KEB maintaining customer accounts on their own books using the OSBSB~~each of the customer accounts mirroring a virtual account or a subaccount of the Correspondent Bank's account with Westpac.~~

### Particulars

SAFA, [29]-[32], [41]-[42].

13. At all material times on and from August 2016, Westpac provided a technology platform that facilitated low value international payments from Australia to other countries known as LitePay (**LitePay**).

#### Particulars

- (i) *Litepay is a low value payments channel (for payments up to \$3,000) which was designed to provide customers with a low-cost solution for transferring money to a range of countries with a fixed fee of \$5 per transfer.*
- (ii) *The Correspondent Banks able to receive international fund transfers from customers of Westpac via LitePay included:*
  - (A) *Citibank from 24 June 2019 to 25 November 2019;*
  - (B) *Deutsche from 13 March 2017 to 2019; and*
  - (C) *Bank Q from 8 August 2016 to 25 November 2019.*

14. At all material times, Westpac as a provider of designated services, was exposed to the risk that the provision by Westpac of designated services might (whether inadvertently or otherwise) involve or facilitate money laundering or the financing of terrorism (**ML/TF Risk**).

#### Particulars

- i)* *Money laundering is defined in section 5 of the AML/CTF Act to include conduct that amounts to an offence under Division 400 of the Criminal Code.*
- ii)* *Division 400 of the Criminal Code creates an offence if a person deals with money or other property and either: (a) the money or property is, and the person believes it to be, proceeds of crime; or (b) the person intends that the money or property will become an instrument of crime; or (c) either the money or property is proceeds of crime or there is a risk that the money or property will become an instrument of crime; and the person is reckless as to the fact that the money or*

*property is proceeds of crime or the fact that there is a risk that it will become an instrument of crime; or (d) either the money or property is proceeds of crime or there is a risk that the money or property will become an instrument of crime; and the person is negligent as to the fact that the money or property is proceeds of crime or the fact that there is a risk that it will become an instrument of crime; or (e) it is reasonable to suspect that the money or property is proceeds of crime.*

- iii) *‘deals with money or other property’ has the following definition in section 400.2 of the Criminal Code: “ a person deals with money or other property if the person (a) receives, possesses, conceals or disposes of money or other property; (b) imports money or other property into Australia; (c) exports money or other property from Australia; (d) engages in a banking transaction relating to money or other property”*
- iv) *‘Instrument of crime’ has the following definition in section 400.1 of the Criminal Code: “money or other property is an instrument of crime if it is used in the commission of, or used to facilitate the commission of, an offence against a law of the Commonwealth, a State, a Territory or a foreign country that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence).”*
- v) *‘proceeds of crime’ has the following definition in section 400.1 of the Criminal Code: “means any money or other property that is wholly or partly derived or realised, directly or indirectly, by any person from the commission of an offence against a law of the Commonwealth, a State, a Territory or a foreign country that may be dealt with as an indictable offence...”*
- vi) *Money laundering includes money used in the commission of, or to facilitate, child exploitation.*

vii) AUSTRAC's 'Typologies and cases studies report 2013' reported case studies (19 and 22) where suspects conducted outgoing internal fund transfer instructions to the Philippines for the purposes of child exploitation. The report stated that 'indicators' of child exploitation included: multiple low-value international fund transfers to a high-risk jurisdiction; and multiple international fund transfers sent to the same beneficiary.

15. At all material times, ~~the ACM Arrangements, OSBSB Arrangements and LitePay Correspondent Banking Relationships including those with the Correspondent Banks~~ had an inherent and higher level of ML/TF Risk due to, among other things:
- (a) the risks with cross border movements of funds;
  - (b) jurisdictional risk;
  - (c) limited transparency as to the identity and source of funds of customers of the Correspondent Banks;
  - (d) nested arrangements (also known as downstream correspondent banking), being arrangements where a Correspondent Bank's Correspondent Banking Relationship is used by other underlying financial institutions through their relationship with the Correspondent Bank's direct customer resulting in:
    - (i) the underlying financial institution conducting transactions without being direct customers of the Correspondent Bank; and
    - (ii) the Correspondent Bank not having visibility over the underlying financial institution transacting through the arrangement; and
  - (da) relationships with other correspondent banks in sanctioned jurisdictions resulting in risks that the Correspondent Bank could facilitate payments in breach of applicable sanctions law;
  - (db) relationships with other correspondent banks in ~~in~~ high-risk jurisdictions;
  - (e) significant regulatory action by overseas regulators; and or

- (f) high risk customers.

**Particulars**

- i) SAFA, [140], [180]-[181], [185], [335(a)].*
- ii) In an examination before ASIC on 11 August 2020, Brian Hartzler (Chief Executive Officer) said, in answer to the question why “correspondent banking was regarded as a high-risk obligation”, that his “assumption is that that would be because international money transfers are, obviously, a, a potential sense [sic] of anti-money laundering risk”. (WPC.0005.0019.0001 at .0028.)*

**B.2 The market disclosure regime governing Westpac**

16. Westpac is, and was at all material times, included in the official list of the financial markets operated by the Australian Securities Exchange (**ASX**) and New Zealand’s Exchange (**NZX**), and by reason thereof, Westpac Shares are:
- (a) ED securities for the purpose of s 111AE of the Corporations Act, and quoted ED securities within the meaning of s 111AM of the Corporations Act; and
  - (b) able to be purchased and sold by investors and potential investors in Westpac Shares (**Affected Market**) on the financial markets operated by the ASX and NZX.
17. Westpac is and was at all material times:
- (a) a public company within the meaning of s 9 of the Corporations Act;
  - (b) a listed disclosing entity within the meaning of s 111AC(1) of the Corporations Act;
  - (c) a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;
  - (d) subject to and bound by the Australian Stock Exchange Listing Rules (**ASX Listing Rules**);

- (e) subject to and bound by the NZX Listing Rules (**NZX Listing Rules**);
- (f) deemed by NZX Listing Rules 1.7.1 and 1.7.2 to satisfy and comply with the NZX Listing Rules as long as it, among other things:
  - (i) remained listed on the ASX;
  - (ii) complied with the ASX Listing Rules; and
  - (iii) NZX Listing Rule 1.7.2(a);
- (g) obliged by:
  - (i) ss 111AP(1) and/or 674(1) of the Corporations Act and/or ASX Listing Rule 3.1 to, once it is, or becomes aware of, any information concerning Westpac that a reasonable person would expect to have a material effect on the price or value of Westpac Shares, tell the ASX that information immediately (unless the exceptions in ASX Listing Rule 3.1A apply); and/or
  - (ii) NZX Listing Rule 1.7.2(a) to release through the NZX's nominated market announcement platform at the same time as, or promptly and without delay after, any information or notice it has provided to the ASX that is made public, and any additional information NZX requests from time to time, in the manner and form NZX prescribes from time to time,

**(Continuous Disclosure Obligations);**

- (h) a party to an arrangement with the Bank of New York Mellon pursuant to which the Bank of New York Mellon issues Westpac ADRs (at a ratio of 1 Westpac ADR to 5.1 Westpac ~~Shares~~ Share) which were traded on the New York Stock Exchange in the United States of America under the ticker "WBK".

### **B.3 The Anti-Money Laundering and Counter-Terrorism Financing regime governing Westpac**

#### ***B.3.1 Westpac's ML/TF Preliminary Risk Assessment and Due Diligence Assessment obligations***

18. At all material times:

- (a) Westpac was obliged by s 98(1) of the AML/CTF Act (a civil penalty provision) to carry out regular assessments of the risk it may reasonably face that each of its Corresponding Banking Relationships might (inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism (that is, the ML/TF Risk) (**ML/TF Preliminary Risk Assessment**);
- (b) if warranted by the risk identified in an assessment carried out in accordance with subsection 98(1) of the AML/CTF Act, Westpac was obliged by s 98(2)(a) of the AML/CTF Act (a civil penalty provision) and the AML/CTF Rules to carry out regular assessments of:
  - (i) the nature of the Correspondent Bank's businesses, including its products and customer base (rules 3.1.4(1) and 3.1.2(1) of the AML/CTF Rules);
  - (ii) the adequacy of the Correspondent Bank's controls and internal compliance practices in relation to anti-money laundering and counter-terrorism financing (rules 3.1.4(1) and 3.1.2(6) of the AML/CTF Rules);
  - (iii) the nature of the Correspondent Bank's ongoing business relationship with Westpac, including the types of transactions carried out as part of that relationship (rule 3.1.4(3) of the AML/CTF Rules); and
  - (iv) any material changes in the nature of the Correspondent Bank's ongoing business relationship with Westpac, including in respect of the types of transactions carried out as part of that relationship (rule 3.1.4(4) of the AML/CTF Rules),

**(Due Diligence Assessment)**; and

- (c) Westpac was obliged by s 98(2)(b) of the AML/CTF Act to prepare a written record of each assessment it undertook in accordance with s 98(2)(a) of the AML/CTF Act as soon as practicable after the completion of that assessment.

### **B.3.2 Westpac's IFTI reporting obligations**

19. At all material times:

- (a) if Westpac was the sender of an international funds transfer instruction (within the meaning of s 46 of the AML/CTF Act) (**IFTI**) transmitted out of Australia (**Outgoing IFTI**), Westpac was obliged by ss 45(1)(a)(i) and (2) of the AML/CTF Act (s 45(2) being a civil penalty provision) to within 10 business days of sending that instruction, give the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) CEO a report about that instruction;
- (b) if Westpac was the recipient of an international funds transfer instruction (within the meaning of s 46 of the AML/CTF Act) transmitted into Australia (**Incoming IFTI**), Westpac was obliged by ss 45(1)(a)(ii) and (2) of the AML/CTF Act (s 45(2) being a civil penalty provision) to within 10 business days of sending that instruction, give the AUSTRAC CEO a report about that instruction; and
- (c) s 45(3) of the AML/CTF Act and rule 16.3(1) and (3)(a)(i) of the AML/CTF Rules required a report about an IFTI within the meaning of item 2 of the table in s 46 of the AML/CTF Act, to contain:
  - (i) the name of the payer; and
  - (ii) for an instruction within the meaning of paragraphs 70(b) or 70(c) of the AML/CTF Act, one of the following:
    - (A) the payer's full business or residential address (not being a post box address);
    - (B) a unique identification number given to the payer by the Commonwealth or an authority of the Commonwealth (for example, an Australian Business Number or an Australian Company Number);

- (C) a unique identification number given to the payer by the government of a foreign country;
- (D) the identification number given to the payer by the ordering institution; and
- (E) if the payer is an individual—the payer’s date of birth, the country of the payer’s birth and the town, city or locality of the payer’s birth.

### ***B.3.3 Westpac’s record obligations***

20. At all material times, if Westpac was an interposed institution in a funds transfer chain (within the meaning of s 64(2) of the AML/CTF Act) and:

- (a) the transfer instruction was passed on by Westpac at, or through, its permanent establishment in Australia (within the meaning of s 64(7)(a) and 64(7)(b)(ii) of the AML/CTF Act); and
- (b) the transfer instruction is accepted by the ordering institution (within the meaning of ss 64(2) and 64(7)(c)(i) of the AML/CTF Act) at, or through, a permanent establishment of the ordering institution in Australia; and
- (c) some or all of the required transfer information (within the meaning of s 70 of the AML/CTF Act) was passed on to Westpac by another institution in the funds transfer chain (within the meaning of ss 64(2) and 64(7)(d) of the AML/CTF Act), then,

before passing on the transfer instruction to another institution in the chain, Westpac was obligated by s 64(7)(f) of the AML/CTF Act to ensure that the instruction includes so much of the required transfer information as was passed on to Westpac as pleaded in subparagraph (c) above.

21. At all material times, if Westpac was the ordering institution in a funds transfer chain (within the meaning of s 64(2) of the AML/CTF Act) and the transfer instruction was accepted by Westpac at or through a permanent establishment of Westpac in Australia (within the meaning of s 64(6)(b) of the AML/CFT Act), then, before passing on the transfer instruction to another person in the chain, Westpac was obligated by

s 64(6) of the AML/CTF Act to ensure that the instruction included the required transfer information (within the meaning of s 70 of the AML/CTF Act).

22. At all material times, if in a multiple-institution person-to-person electronic funds transfer instruction (within the meaning of s 64(2) of the AML/CTF Act) to which s 64 of the AML/CTF Act applied:

- (a) Westpac was in the funds transfer chain (within the meaning of s 64(2) of the AML/CTF Act); and
- (b) Westpac was an interposed person (within the meaning of s 64(2) of the AML/CTF Act); and
- (c) Westpac passed on a transfer instruction, at or through a permanent establishment in Australia to another financial institution; and
- (d) the transferred money was made available at or through a permanent establishment of the beneficiary institution in Australia; and
- (e) some or all of the required transfer information (within the meaning of s 70 of the AML/CTF Act) was passed on to Westpac; and
- (f) the transfer instruction was accepted by the ordering institution (within the meaning of s 64(2) of the AML/CTF Act) by a permanent establishment of the ordering institution in a foreign country; and
- (g) the transfer instruction was passed on to Westpac by a permanent establishment of the ordering institution, or of another person, in a foreign country,

then, Westpac was obligated by s 115(2) of the AML/CTF Act (a civil penalty provision) to:

- (h) make a record of so much of the required transfer information as was passed on to Westpac as pleaded in subparagraph (e) above; and

- (i) retain that record, or a copy of the record, for 7 years after the transfer instruction was passed on to the person.

***B.3.4 Westpac's anti-money laundering and counter terrorism financing program obligations***

23. At all material times:

- (a) Westpac was obligated by s 81 of the AML/CTF Act (a civil penalty provision) to not commence to provide a designated service to a customer if Westpac:

- (i) had not adopted; and

- (ii) did not maintain;

- an anti-money laundering and counter terrorism financing program that applies to Westpac;

- (b) by section 83 of the AML/CTF Act, an anti-money laundering and counter terrorism financing program included a joint anti-money laundering and counter-terrorism financing program;

- (c) by section 85(1), (2)(a) and (c) of the AML/CTF Act a joint anti-money laundering and counter-terrorism financing program is a written program that:

- (i) applies to each reporting entity that from time to time belongs to a particular designated business group;

- (ii) is divided into Part A (general) and Part B (customer identification), where Part A is a part:

- (A) with the primary purpose to identify, mitigate, and manage, the risk Westpac may reasonably face that the provision by Westpac of designated services at or through a permanent establishment of Westpac in Australia might (whether inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism; and

- (B) that complies with the AML/CTF Rules;

- (d) Westpac purported to adopt and maintain a joint anti-money laundering and counter-terrorism financing program that applied to Westpac (**Westpac's AML/CTF Program**); and
- (e) by reason of the matters pleaded in subparagraph (d) above, Westpac was obligated by s 82 of the AML/CTF Act (this being a civil penalty provision) to comply with Part A of Westpac's AML/CTF Program.

#### **Particulars**

*i)* As to the matters pleaded in subparagraph (d) above, the Part A of Westpac's AML/CTF Program comprised:

- A) version 3.3 effective from 22 May 2013 to 10 February 2015  
[\(WPC.901.001.1307\)](#);
- B) version 4.0 effective from 11 February 2015 to 26 January 2016  
[\(WPC.901.001.1402\)](#);
- C) version 4.1 effective from 27 January 2016 to 6 March 2018  
[\(WPC.901.001.1498\)](#);
- D) version 1.0 effective from 7 March 2018 to 7 March 2018  
[\(WPC.901.001.1553\)](#);
- E) version 1.1 effective from 8 March 2018 to 1 May 2018  
[\(WPC.901.001.1568\)](#);
- F) version 1.2 effective from 2 May 2018 to 13 August 2018  
[\(WPC.901.001.1592\)](#); *and*
- G) version 1.3 effective ~~on~~ *and* from 14 August 2018 [to 5 March 2019 \(WPC.901.001.1607\)](#); *and*
- H) [version 2.0 effective from 6 March 2019 \(WPC.902.011.1567\)](#).

24. At all material times, by reason of the matters pleaded in paragraph 23 above, Westpac was obliged by:

- (a) rule 9.1.3 of the AML/CTF Rules to ensure that in determining and putting in place appropriate risk-based systems and controls, Part A of Westpac's AML/CTF Program must have regard to the following factors in relation to each reporting entity in the designated business group:
  - (i) the nature, size and complexity of business; and
  - (ii) the type of ML/TF risk that might be reasonably faced;
  
- (b) rule 9.1.4 of the AML/CTF Rules to ensure that in identifying the ML/TF risk, Part A of Westpac's AML/CTF Program must take account of the risk posed by the following factors in relation to each reporting entity in the designated business group:
  - (i) the customer types, including any politically exposed persons;
  - (ii) the types of designated services provided;
  - (iii) the methods by which designated services are delivered; and
  - (iv) the foreign jurisdictions dealt with;
  
- (c) rule 9.1.5 of the AML/CTF Rules to ensure that Part A of Westpac's AML/CTF Program is designed to enable Westpac to:
  - ~~(i) — prior to 4 June 2014:~~
    - ~~(A) — assess the ML/TF risk posed by the following:~~
      - ~~1. — all new designated services prior to introducing them to the market;~~
      - ~~2. — all new methods of designated service delivery prior to adopting them; and~~
      - ~~3. — all new or developing technologies used for the provision of a designated service prior to adopting them;~~

~~(ii) — following 4 June 2014:~~

- (A) understand the nature and purpose of the business relationship with its customer types, including, as appropriate, the collection of information relevant to that understanding; ~~and~~
- (B) understand the control structure of non-individual customers;
- (C) identify significant changes in ML/TF risk for the purposes of the group's Part A and Part B programs, including:
  - 1. risks identified by consideration of the factors in rule 9.1.4 of the AML/CTF Rules; and
  - 2. risks arising from changes in the nature of the business relationship, control structure or beneficial ownership of its customers; and
- (D) identify, mitigate and manage any ML/TF risk arising from:
  - 1. all new designated services prior to introducing them to the market;
  - 2. all new methods of designated service delivery prior to adopting them;
  - 3. all new or developing technologies used for the provision of a designated service prior to adopting them; and
  - 4. changes arising in the nature of the business relationship, control structure or beneficial ownership of its customers;
- (d) rule 9.9.1(2) of the AML/CTF Rules to ensure that Part A of Westpac's AML/CTF Program contained appropriate systems and controls designed to ensure compliance with the reporting obligations of the reporting entity;
- (e) rule 15.4 of the AML/CTF Rules to include a transaction monitoring program in Part A of Westpac's AML/CTF Program;

- (f) rule 15.5 of the AML/CTF Rules to ensure that the transaction monitoring program must include appropriate risk-based systems and controls to monitor the transactions of customers;
- (g) rule 15.6 of the AML/CTF Rules to ensure that the transaction monitoring program have the purpose of identifying, having regard to ML/TF risk, any transaction that appears to be suspicious within the terms of section 41 of the AML/CTF Act; and
- (h) rule 15.7 of the AML/CTF Rules to ensure that the transaction monitoring program should have regard to complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

### **B.3.5 Westpac's AML/CTF Program**

25. At all material times:

- (a) Part A of Westpac's AML/CTF Program contained procedures for managing ML/TF Risk which included procedures for ML/TF Preliminary Risk Assessments; and
- (b) for the purposes of Part A of Westpac's AML/CTF Program, further procedures were set out in the Westpac Group ML/TF Preliminary Risk Assessment Methodology Standard, as amended from time to time,

**(Part A Assessment Procedures).**

#### **Particulars**

- i) Section 6 of Part A of versions 3.3 and 4.0, Section 7 of Part A of version 4.1, Section 4 of versions 1.0. 1.1, 1.2 and 1.3 of Part A of Westpac's AML/CTF Program.*
- ii) Further particulars may be provided following further discovery.*

26. At all material times, Part A of Westpac's AML/CTF Program included a transaction monitoring program (**Transaction Monitoring Program**) whereby:
- (a) the details and scope of Westpac's transaction monitoring program was set out in the Westpac Australia AML/CTF Transaction Monitoring Program Standard and various Transaction Monitoring Program Procedures developed by Westpac's business units;
  - (b) customer transactions were monitored using the Detica (Westpac's financial crimes monitoring software) automated transaction monitoring system among other processes;
  - (c) Westpac's transaction monitoring system used a set of targeted rules, referred to as detection scenarios, designed to identify transactions that may be suspicious for the purposes of s 41 of the Act, including transactions that appear to be complex, unusually large transactions and unusual patterns of transactions without any apparent economic or visible lawful purpose; and
  - (d) Vostro accounts were not subject to the Transaction Monitoring Program, and Westpac did not apply transaction monitoring to Vostro accounts until August 2017.

#### **Particulars**

- i) Paragraph 7.5.1 of Section 7 of Part A of versions 3.3 and 4.0; paragraph 8.5.1 of Section 8 of Part A of version 4.1. and paragraph 5.2 of Section 5 of versions 1.0, 1.1, 1.2 and 1.3 of the Part A of Westpac's AML/CTF Program.*
- ii) Further particulars may be provided following further discovery.*

#### **B.3.6 Westpac's monitoring obligations**

27. At all material times Westpac was obliged by:
- (a) s 36(1) of the AML/CTF Act (a civil penalty provision) to monitor its customers in relation to the provision of designated services with a view to identifying,

mitigating and managing ML/TF Risk and do so in accordance with the AML/CTF Rules;

- (b) rule 15.5 of the AML/CTF Rules to ensure that the transaction monitoring program include appropriate risk-based systems and controls to monitor the transactions of customers;
- (c) rule 15.8 of the AML/CTF Rules to include an enhanced customer due diligence program in Part A of Westpac's AML/CTF Program;
- (d) rule 15.9 of the AML/CTF Rules to apply the enhanced customer due diligence program when, among other things:
  - (i) it determines under its risk-based systems and controls that the ML/TF Risk is high; or
  - (ii) a suspicion has arisen for the purposes of section 41 of the AML/CTF Act; and
- (e) rule 15.10 of the AML/CTF Rules to include in its enhanced customer due diligence program appropriate risk-based systems and controls;
- (f) s 41(2) of the AML/CTF Act (a civil penalty provision) to report to AUSTRAC "suspicious matters" as described within s 41(1) of the AML/CTF Act within the time specified in s 42(2).

### ***B.3.7 Westpac's exposure to reputational risk and civil penalties***

28. At all material times in the Relevant Period, Westpac was subject to:
- (a) reputational risk arising from, inter alia, negative perception on the part of customers, counterparties, shareholders, investors, debt holders, market analysts and regulators, with adverse reputational risk outcomes flowing from the failure to manage other types of risk (including compliance risk); and

- (b) the risk of loss of reputation if it failed to comply with its obligations under the AML/CTF Act, the objects of which included the combating of money laundering and financing of terrorism.

### Particulars

- i) *Westpac's 2017 Annual Report*), pp 97-100, 163-165, 171-173.
- ii) *Westpac's US Disclosure 30 September 2017 (2017 US Disclosure)*, pp 33-34, 119-122, 125-126, 132-134.
- iii) *Westpac's 2018 Annual Report*, pp ~~171-176~~ ~~108-113~~, 116-120.
- iv) *Westpac's US Disclosure 30 September 2018 (2018 US Disclosure)*, pp 40-41, 129-133, 137-141, 148.
- v) *Westpac's 2019 Annual Report*, pp 102-106, 109-113.
- vi) *Westpac's US Disclosure 30 September 2019 (2019 US Disclosure)*, pp 33, 120-124, 127-131, 134-136.
- vii) *In an examination before ASIC on 23 December 2019, Brian Hartzler (Chief Executive Officer) said that Westpac cancelled the LitePay product the weekend after AUSTRAC issued proceedings against Westpac (referred to at paragraph 516 below) due to unacceptable reputational risk. (WPC.0005.0037.0001 at .0126.)*
- viii) *In an examination before ASIC on 11 August 2020, Brian Hartzler (Chief Executive Officer) agreed with the proposition that "regulatory action and reputational loss are foreseeable risks from breaches of legislation such as the AML/CTF obligations". (WPC.0005.0019.0001 at .0030.)*

29. Further, at all material times in the Relevant Period:

- (a) Westpac would be potentially liable to civil penalties if it did not:
- (i) carry out regular ML/TF Preliminary Risk Assessments and Due Diligence Assessments in contravention of s 98 of the AML/CTF Act;
  - (ii) provide the AUSTRAC CEO with Outgoing IFTI and Incoming IFTI reports within 10 business days in contravention of s 45(2) of the AML/CTF Act;
  - (iii) adopt and maintain an anti-money laundering and counter terrorism financing program (within the meaning of ss 81, 83 and 85 of the AML/CTF Act) in contravention of s 81 of the AML/CTF Act;
  - (iv) comply with Part A of Westpac's AML/CTF Program in contravention of s 82 of the AML/CTF Act;
  - (v) monitor its customers in relation to the provision of designated services with a view to identifying, mitigating and managing ML/TF Risk in contravention of s 36(1) of the AML/CTF Act);
  - (vi) before passing on a transfer instruction, ensure that it included required transfer information in contravention of s 64(7) of the AML/CTF Act;
  - (vii) make and retain for 7 years a record of required transfer information as required by s 115(2) of the AML/CTF Act,

in the amount of up to 100,000 penalty units per contravention, being at relevant times:

- (viii) \$11,000,000, between 1 June 2008 and 27 December 2012;
  - (ix) \$17,000,000, between 28 December 2012 and 30 July 2015;
  - (x) \$18,000,000, between 31 July 2015 and 30 June 2017;
  - (xi) \$21,000,000, on and after 1 July 2017;
- (b) Anti-money laundering and counter-terrorism financing compliance had been the subject of increasing regulatory change and enforcement, and if Westpac

failed to comply with the requirements of such regulations, it may become subject to significant regulatory fines, regulatory sanctions and suffer material financial loss or loss of reputation. Further, the increasing volume, remediation costs, complexity and global reach of such regulatory requirements, and the increased propensity for sanctions and the level of financial penalties for breaches of requirements exacerbated the severity of this risk.

#### **Particulars**

- i) As to subparagraph (a), AML/CTF Act, s 175(4); Crimes Act 1914 (Cth), s 4AA.*
- ii) As to sub-paragraph (b), the Applicant refers to:*
  - A) Westpac's 2013 Annual Report pp 105-106; 109-110;*
  - B) Westpac's 2014 Annual Report pp 112-113, 117;*
  - C) Westpac's 2015 Annual Report pp 99-100, 104;*
  - D) Westpac's 2016 Annual Report pp 94-95, 99;*
  - E) Westpac's 2017 Annual Report, pp 97-100;*
  - F) Westpac's 2018 Annual Report, pp 21, 108-112; and*
  - G) Westpac's 2019 Annual Report pp 15, 102-105.*

#### **B.4 B.3A Directors and officers of Westpac Westpac's Board and Management Committees**

30. At all material times, Westpac had a Risk and Compliance Committee, also known as the Board Risk and Compliance Committee (Risk and Compliance Committee or BRCC) which was tasked to assist the Board of Westpac to:

- (a) consider and approve Westpac's overall risk management framework for managing financial and non-financial risks;

- (b) oversee the risk profile and set risk appetite for material risks;
- (c) approve Westpac's Risk Management Framework, Risk Management Strategy and Group Risk Appetite Statement;
- (d) make its annual declaration to APRA on risk management; and
- (e) oversee compliance management within Westpac.

#### **Particulars**

*i) Westpac's Board Risk & Compliance Committee Charter.*

~~ii) Further particulars may be provided after discovery.~~

30A. At all material times, Westpac had a Group Executive Risk Committee (RISKCO), the responsibilities of which included:

- (a) leading the management and oversight of compliance risk across Westpac;
- (b) overseeing Westpac's operational risk profile;
- (c) approving new and material changes to policies relating to financial crime risk;
- (d) identifying emerging operational risks and allocating responsibility for assessing impacts and implementing actions to address them;
- (e) ongoing senior management oversight and awareness of:
  - (i) adherence to Westpac's financial crime policies and Westpac's AML/CTF Program; and
  - (ii) material financial crime risk and compliance issues.

#### **Particulars**

*i) Operational Risk Management Framework, version 18 (January 2016) (WCA.2001.0031.1314 at .1330).*

- ii) *Operational Risk Management Framework, version 21 (March 2018) (WCA.2000.0065.2990 at .3003).*
- iii) *Financial Crime Risk Management Framework, version 1.0 (October 2014) at [5.1] (WBC.0201.0034.0064 at .0071–.0072).*
- iv) *Financial Crime Risk Management Framework, version 1.2 (July 2016) at [9.2] (WCA.2000.0224.7657 at .7671).*
- v) *Financial Crime Risk Management Framework, version 4.0 (August 2018) at [9.3] (WCA.2000.0062.2334 at .2348).*
- vi) *Compliance Management Framework, version 9 (November 2018) (WCA.2000.0122.4501 at .4505, .4513).*

30B. At all material times, Westpac had a Group Financial Crime Committee (**FINCO**), which was also known as the Group Operational Risk and Financial Crime Committee (**OFCO**), the responsibilities of which included:

- (a) governing financial crime risk management and compliance across Westpac;
- (b) providing Westpac’s management with appropriate oversight of financial crime risk management and compliance;
- (c) reviewing, supporting or approving financial crime policies, programs and standards;
- (d) overseeing enhancements to financial crime obligations and management action plans to address gaps; and
- (e) operating under the oversight of RISKCO.

#### **Particulars**

- i) *Financial Crime Risk Management Framework, version 1.0 (October 2014) at [5.1] (WBC.0201.0034.0064 at .0072).*

ii) *Financial Crime Risk Management Framework, version 1.2 (July 2016) at [9.2] (WCA.2000.0224.7657 at .7672).*

iii) *Financial Crime Risk Management Framework, version 4.0 (August 2018) at [9.3] (WCA.2000.0062.2334 at .2348).*

30C. From around 10 December 2015 until the end of the Relevant Period, Westpac had a Westpac Institutional Bank Operational Risk and Compliance Committee (ORCC), which was also known as the WIB Risk Committee (WIB RiskCo), the responsibilities of which included:

- (a) to be the key First Line of Defence forum responsible for operational risk-reward and compliance management across WIB, including Pacific Banking, within approved risk appetites;
- (b) ensuring the efficacy of the Three Lines of Defence model in relation to the management of operational and compliance risk associated with WIB's global activities;
- (c) tracking and evaluating emerging operational and compliance risks, and directing any appropriate response;
- (d) responding to emerging risks;
- (e) escalating, in the discretion of the committee's Chair, issues to RISKCO.

#### Particulars

i) *WCA.2001.0058.6027 at .6029, .6030, .6032.*

ii) *WBC.0201.0028.4881.*

## **B.4 Directors and Officers of Westpac**

### **B.4.1 The Chief Executive Officer, Chief Risk Officer and Chief Financial Officer**

31. Ms Gail Kelly (**Ms Kelly**) was:

- (a) from 1 February 2008 to 1 February 2015, the Group Chief Executive Officer and Managing Director of Westpac;
- (b) from 1 February 2008 to 1 February 2015, an executive director of Westpac; and
- (c) at all material times until 1 February 2015, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

32. Mr Brian Hartzler (**Mr Hartzler**) was:

- (a) from 1 February 2015 to 2 December 2019 the Group Chief Executive Officer of Westpac;
- (b) from 2 February 2015 to the date of the commencement of this proceeding, an executive director of Westpac; and
- (c) at all material times from 1 February 2015, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

#### **B.4.2 [Not Used] The Chief Risk Officer**

33. At all material times, Westpac had a Chief Risk Officer who:

- (a) is responsible for risk management and compliance activities across the Group; and
- (b) -is delegated the oversight of Westpac's risk management framework and its implementation by Westpac's Board~~;~~.

34. Mr Greg Targett (**Mr Targett**) was:

- (a) from 2 July 2009 to 31 July 2014, the Chief Risk Officer of Westpac; and
- (b) at all material times until 31 July 2014, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

35. Ms Alexandra Holcomb (**Ms Holcomb**) was:

- (a) from 1 August 2014 to 25 June 2018, the Chief Risk Officer of Westpac; and
- (b) at all material times from 1 August 2014 to 25 June 2018, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

36. Mr Peter King (**Mr King**) was:

(aa) from April 2014 to 2 December 2019, the Chief Financial Officer of Westpac;

- (a) from ~~26~~25 June 2018 to 30 September 2018, the acting Chief Risk Officer of Westpac;

(ba) from 2 December 2019 to 2 April 2020, the acting Chief Executive Officer of Westpac;

(bb) was appointed the Chief Executive Officer on 2 April 2020, and as at the date of this amended statement of claim, remains the Chief Executive Officer; and

- (b) at all material times from ~~26 June 2018~~ April 2014 to ~~30 September 2019~~ the date of the commencement of this proceeding, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

37. Mr David Stephen (**Mr Stephen**) was:

- (a) from 1 October 2018 to the date of the commencement of this proceeding, the Chief Risk Officer of Westpac; and
- (b) at all material times from ~~26 June~~ 1 October 2018 to the date of the commencement of this proceeding, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

### ***B.4.3 The Chairman***

38. Mr Lindsay Philip Maxsted (**Mr Maxsted**) was:

- (a) from 1 March 2008 to the date of the commencement of this proceeding, an independent director of Westpac;

- (b) from 14 December 2011 to the date of the commencement of this proceeding, the Independent Chairman of Westpac;
- (c) from on or around 1 March 2008 to the date of the commencement of this proceeding, a member of Westpac's Risk and Compliance Committee; and
- (d) at all material times, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

#### **B.4.4 Non-executive directors**

39. Mr Ewen Graham Wolseley Crouch (**Mr Crouch**) was:

- (a) from 1 February 2013 to 12 December 2019 ~~the date of the commencement of this proceeding~~, an independent director of Westpac;
- (b) from on or around 1 February 2013 to the date of the commencement of this proceeding, a member of Westpac's Risk and Compliance Committee, and
- (c) at all material times, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

40. Mr Peter Ralph Marriott (**Mr Marriott**) was:

- (a) from 1 June 2013 to the date of the commencement of this proceeding, an independent director of Westpac;
- (b) from on or around 22 July 2013 to the commencement of the proceeding, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

41. Ms Catriona Alison Deans (**Ms Deans**) was:

- (a) from 1 April 2014 to the date of the commencement of this proceeding, an independent director of Westpac;

- (b) from on or around 1 April 2014 to the commencement of the proceeding, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times from 1 April 2014, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

42. Mr Craig William Dunn (**Mr Dunn**) was:

- (a) from 1 June 2015 to the date of the commencement of this proceeding, an independent director of Westpac;
- (b) from on or around 5 June 2015 to the commencement of the proceeding, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times from 1 June 2015, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

43. Mr Peter Stanley Nash (**Mr Nash**) was:

- (a) from 7 March 2018 to the date of the commencement of this proceeding, an independent director of Westpac;
- (b) from on or around 7 March 2018 to the commencement of the proceeding, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times from 7 March 2018, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

44. Ms Nerida Frances Caesar (**Ms Caesar**) was:

- (a) from 1 September 2017 to the date of the commencement of this proceeding, an independent director of Westpac;
- (b) from on or around 28 September 2017 to the commencement of the proceeding, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times from 1 September 2017, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

45. Ms Yuen Mei Anita Fung (**Ms Fung**) was:
- (a) from 1 October 2018 to the date of the commencement of this proceeding, an independent director of Westpac;
  - (b) from on or around 1 October 2018 to the commencement of the proceeding, a member of Westpac's Risk and Compliance Committee; and
  - (c) at all material times from 1 October 2018, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
46. Mr Steven John Harker (**Mr Harker**) was:
- (a) from 1 March 2019 to the date of the commencement of this proceeding, an independent director of Westpac; and
  - (b) at all material times from 1 March 2019, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
47. Ms Margaret Leone Seale (**Ms Seale**) was:
- (a) from 1 March 2019 to the date of the commencement of this proceeding, an independent director of Westpac; and
  - (b) at all material times from 1 March 2019, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
48. Mr Peter John Oswin Hawkins (**Mr Hawkins**) was:
- (a) from 1 December 2008 to 12 December 2018, an independent director of Westpac;
  - (b) from on or around 1 December 2008 to 12 December 2018, a member of Westpac's Risk and Compliance Committee; and
  - (c) at all material times until 12 December 2018, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

49. Mr Robert George Elstone (**Mr Elstone**) was:
- (a) from 1 February 2012 to 8 December 2017, an independent director of Westpac;
  - (b) from on or around 6 March 2012 to 8 December 2017, a member of Westpac's Risk and Compliance Committee; and
  - (c) at all material times until 8 December 2017, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
50. Ms Elizabeth Blomfield Bryan (**Ms Bryan**) was:
- (a) from 6 November 2006 to 9 December 2016, an independent director of Westpac;
  - (b) from on or around 7 May 2007 to 9 December 2016, a member of Westpac's Risk and Compliance Committee; and
  - (c) at all material times until 9 December 2016, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
51. Ms Ann Darlene Pickard (**Ms Pickard**) was:
- (a) from 1 December 2011 to 12 December 2014, an independent director of Westpac;
  - (b) from on or around 6 March 2012 to 12 December 2014, a member of Westpac's Risk and Compliance Committee; and
  - (c) at all material times until 12 December 2014, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.
52. Mr John Simon Curtis (**Mr Curtis**) was:
- (a) from 1 December 2008 to 25 April 2014, an independent director of Westpac;

- (b) from on or around 1 December 2008 to 25 April 2014, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times until 25 April 2014, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

53. Mr Gordon McKellar Cairns (**Mr Cairns**) was:

- (a) From 8 July 2004 to 13 December 2014, an independent director of Westpac;
- (b) from 7 May 2007 to 13 December 2014, a member of Westpac's Risk and Compliance Committee; and
- (c) at all material times until 13 December 2014, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

#### ***B.4.5 The Chief Compliance Officer***

54. At all material times, Westpac had a Chief Compliance Officer whose role included, inter alia, the receipt of compliance function reports from business line management responsible for managing compliance.

55. Ms Rebecca Lim (**Ms Lim**) was:

- (a) From November 2011 to the date of the commencement of this proceeding, the General Counsel of Westpac;
- (b) from 2013 to October 2017, the Chief Compliance Officer of Westpac; and
- (c) at all material times ~~until 13 December 2013~~, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

56. Mr Jamie Kelly (**Mr Kelly**) was:

- (a) from October 2017 to the date of the commencement of this proceeding, the Chief Compliance Officer of Westpac; and

- (b) at all material times from October 2017, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

**B.4A Other officers**

57A. Mr Rob Whitfield (Mr Whitfield) was:

- (a) from at least October 2012 to around June 2015, the Group Executive of Westpac Institutional Bank; and
- (b) at all material times from around October 2012 to around June 2015, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

**Particulars**

Westpac Organisational Chart. (WCA.3000.0035.0002 at .0002.)

57B. Mr Phil Coffey (Mr Coffey) was:

- (a) from around April 2014 to around August 2014, the Acting Chief Financial Officer of Westpac; and
- (b) at all material times from around April 2014 to around August 2014, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

**Particulars**

Westpac Organisational Chart. (WCA.3000.0035.0002 at .0005.)

57C. Ms Lyn Cobley (Ms Cobley) was:

- (a) from around December 2015 to the end of the Relevant Period, the Group Executive of Westpac Institutional Bank; and
- (b) at all material times from around December 2015, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

### **Particulars**

Westpac Organisational Chart. (WCA.3000.0035.0002 at .0010.)

57D. Ms Dianne Challenor (**Ms Challenor**) was:

- (a) from January 2017 to December 2021, the General Manager of Global Transaction Services unit of Westpac;
- (b) reported in that role to Ms Cobley;
- (c) at all material times from January 2017, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12;
- (d) and further or in the alternative, was at all material times a person who reported to an officer, namely Ms Cobley.

### **Particulars**

Westpac Organisational Chart. (WCA.3000.0035.0002 at .0015.)

57E. Ms Susie Peacock (**Ms Peacock**) was:

- (a). from around October 2015 to December 2015, the Acting Group Head of Financial Crime;
- (b). from around December 2015 to around April 2018, the Group Head of Financial Crime;
- (c). was responsible (*inter alia*) for:
  - (i) maintaining effective financial crime risk management across Westpac;
  - (ii) advising, monitoring and reporting on financial crime risk appetite;
  - (iii) reporting to the RISKCO and the BRCC on Westpac's financial crime risk management and compliance status and activities;

- (iv) escalating risk management and compliance failures arising from financial crime obligations, including briefing executives on financial crime incidents;
- (d). reported to the General Manager, Operational Risk & Financial Crime, who in turn reported to the Chief Risk Officer;
- (e). at all material times from around October 2015 to around April 2018, was an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12; and
- (f). further or alternatively, was at all material times a person who indirectly reported to an officer, namely Ms Holcomb.

#### **Particulars**

- i) *Westpac Organisational Chart. (WCA.3000.0035.0002 at .0010-.0024.)*
- ii) *Westpac Financial Crime Risk Management Framework (Version 1.2). (WCA.2000.0224.7657 at .7668.)*

**57F. Ms Rana Williams (Ms Williams) was:**

- (a) from around April 2015 to around December 2016, the Group Money Laundering Reporting Officer of Westpac;
- (b) from around April 2015 to around August 2015, reported to the Chief Financial Crime Officer;
- (c) from around August 2015 to around December 2015, reported to the General Manager, Operational Risk and Financial Crime & Assurance;
- (d) from around December 2015 to around December 2016, reported to the Group Head of Financial Crime;
- (e) had responsibilities including (*inter alia*):

- (i) leading the Group AML/CTF team;
- (ii) providing subject matter expertise and advice on AML/CTF matters;
- (iii) overseeing the investigation, management and external reporting of breaches of AML/CTF regulatory reporting;
- (iv) owning, developing and maintaining Westpac's AML/CTF program, standards, guidance, training, and supporting group procedures;
- (f) at all material times from around April 2015 to around December 2016 was an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12; and
- (g) further or alternatively, was at all material times a person who indirectly reported to an officer, namely Ms Holcomb.

#### **Particulars**

- i) Westpac Organisational Chart. (WCA.3000.0035.0002 at .0007–.0018.)*
- ii) Westpac Financial Crime Risk Management Framework (Version 1.0) (WBC.0201.0034.0064 at .0075).*

**57G. Ms Amanda Wood (Ms Wood) was:**

- (a) from around May 2017 to May 2019, the Group Money Laundering Reporting Officer of Westpac;
- (b) from around May 2017 to around June 2018, formally reported to the Group Head of Financial Crime, and from around June 2018 to around October 2018, formally reported to the General Manager, Operational Risk and Financial Crime;
- (c) from around May 2017 to around October 2018, reported indirectly to the Chief Risk Officer;

- (d) from around October 2018, reported directly to the Chief Compliance Officer;
- (e) from around July 2018 to May 2019, was a member of the Group Operational Risk and Financial Crime Committee, and from May 2017 to around July 2018 attended meetings of that committee as a delegate or guest;
- (f) at all material times from May 2017 to May 2019:
  - (i) was considered by Mr King to be the most senior expert in AML/CTF compliance upon whom he relied; and
  - (ii) in practice, reported directly to officers including Mr Hartzler, Mr King, and Ms Holcomb on matters within her expertise;
- (g) had responsibilities including (*inter alia*):
  - (i) primary responsibility for maintaining effective financial crime risk management across Westpac and advising, monitoring and reporting on financial crime risk appetite;
  - (ii) leading the Enterprise Financial Crime function;
  - (iii) preparing the quarterly Financial Crime Report to the RISKCO, FINCO/OFCO and the BRCC;
  - (iv) escalating risk management and compliance failures arising from financial crime obligations to the General Manager, Operational Risk and Financial Crime, including facilitating briefings to Group Executives on financial crime incidents as required;
  - (v) owning, developing and maintaining Westpac's AML/CTF Policy and AML/CTF Program;
  - (vi) overseeing the management and external reporting of breaches of financial crime obligations;
- (h) at all material times from May 2017 to May 2019, was an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12;

- (i) further or alternatively, was at all material times a person who reported indirectly to an officer, namely the Chief Risk Officer and/or the Chief Compliance Officer.

**Particulars**

- i) As to paragraph (a): Westpac Organisational Chart (WCA.3000.0035.0002 at .0018, .0036); ASIC Examination of Amanda Wood (13 December 2019) (WPC.0005.0004.0001 at .0007).
- ii) As to paragraphs (b) to (d), Westpac Organisational Chart (WCA.3000.0035.0002 at .0029).
- iii) As to paragraph (e): ASIC Examination of Amanda Wood (7 October 2020) (WPC.0005.0004.0001 at .0012–.0013); Draft Minutes of Meeting of the Westpac Group Operational Risk and Financial Crime Committee (6 July 2018) (ASIC Examination of Amanda Wood (13 December 2019) (WPC.0005.0004.0001 at .0007).
- iv) As to paragraph (f): In an ASIC examination on 8 September 2020, in response to the question “who were the most senior [AML/CTF] experts that you’d rely on”, Mr King stated “the MLRO”. (WPC.0005.0028.0001 at .0020.) The Applicant further repeats particular iii) above.
- v) As to paragraph (g): Financial Crime Risk Management Framework, version 4.0 (August 2018) (WCA.2000.0062.2334 at .2345–.2346).

57H. Mr David Lees (Mr Lees) was:

- (a) from around June 2018 to around September 2018, the acting Chief Financial Officer of Westpac; and
- (b) at all material times from around June 2018 to around September 2018, an officer of Westpac within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

## Particulars

Westpac Organisational Chart. (WCA.3000.0035.0002 at .0025.)

### B.4B. Senior management

57I. Westpac's senior management included the following persons:

(a) Julie Beesley, who:

(i) from the start of the Relevant Period to around December 2014, was Group Head of AML & Sanctions;

(ii) from around December 2014 to June 2015, was Chief Financial Crime Officer;

(iii) from the start of the Relevant Period to around June 2015, reported to the Group General Manager for Enterprise Risk, who in turn reported to the Chief Risk Officer; and

(iv) in June 2015, reported to the General Manager, Operational Risk, Financial Crime and Assurance, who in turn reported to the Chief Risk Officer.

(b) Tara Cahill, who:

(i) from around June 2015 to 3 January 2018 was the General Manager, Operational Risk, Financial Crime and Assurance; and

(ii) in that role, reported to the Chief Risk Officer.

(c) Melanie Hilton, who (relevantly):

(i) from around January 2018 to around October 2018, was Acting General Manager, Operational Risk, Financial Crime and Assurance, reporting to the Chief Risk Officer; and

- (ii) from around October 2018 to the end of the Relevant Period, was Chief Risk Officer, Group Functions and Enterprise Services, reporting to the General Manager, Operational Risk, who reported to the Chief Risk Officer.
- (d) Goran Jankoski, who (relevantly):
  - (i) from around August 2016 to November 2017, was the Deputy Group MLRO, reporting to the Group MLRO, who in turn reported to the Group Head of Financial Crime, who reported to the General Manager of Operational Risk, Financial Crime and Assurance, who reported to the Chief Risk Officer; and
  - (ii) from around November 2018 to around April 2019, was the Executive Manager of Financial Crime, Group Transaction Services, reporting to the Chief Operating Officer, Group Transaction Services, who in turn reported to Ms Challenor, who reported to Ms Cobley; and
- (e) Fazel Hassiem, who (relevantly):
  - (i) from the start of the Relevant Period to around June 2015, was Executive Manager, AML and Sanctions;
  - (ii) from around June 2015 to around May 2017, was Executive Manager, WIB Financial Crime;
  - (iii) from around May 2017 to the end of the Relevant Period was the WIB Financial Crime Officer;
  - (iv) from the start of the Relevant Period to around November 2015, reported to the Head of Compliance, WIB, who in turn reported to the General Counsel and Chief Compliance Officer;
  - (v) from around November 2015 to around June 2018, reported to the Group Head of Financial Crime, who reported to the General Manager of Operational Risk, Financial Crime and Assurance, who reported to the Chief Risk Officer;

- (vi) from around June 2018 to around October 2018 reported to the Group MLRO, who in turn reported to the General Manager of Operational Risk, Financial Crime and Assurance, who reported to the Chief Risk Officer;
- (vii) from around October 2018 reported to the Group MLRO, who in turn reported to the Chief Compliance Officer; and
- (viii) from around April 2019 to the end of the Relevant Period, reported to the Global Head of Financial Crime, who in turn reported to the Chief Compliance Officer.

#### **Particulars**

- i) Westpac Organisational Chart (WCA.3000.0035.0002).*
- ii) As to paragraph 56H(c), WPC.0005.0036.0001 at .0004-.0024.*
- iii) As to paragraph 56H(b), WPC.0005.0008.0001 at .0007-0023, 0093.*

#### **B.5 The knowledge of the officers of Westpac is the knowledge of Westpac**

57. By reason of the matters pleaded in paragraphs 31 and 32, and 38 to 53, any information of which any or all of:
- (a) Ms Kelly;
  - (b) Mr Hartzler;
  - (c) Mr Maxsted;
  - (d) Mr Crouch;
  - (e) Mr Marriott;
  - (f) Ms Deans;
  - (g) Mr Dunn;
  - (h) Mr Nash;

- (i) Ms Caesar;
- (j) Ms Fung;
- (k) Mr Harker;
- (l) Ms Seale;
- (m) Mr Hawkins;
- (n) Mr Elstone;
- (o) Ms Bryan;
- (p) Ms Pickard;
- (q) Ms Curtis; and
- (r) Mr Cairns,

(together, **Westpac Board**) became aware, or which ought reasonably to have come into his or her possession in the course of the performance of his or her respective duties as an officer of Westpac, was information of which Westpac was aware (as awareness is defined in ASX Listing Rule 19.12).

58. By reason of the matters pleaded in paragraphs 34 to 37, and 55 to 57H any information of which any or all of:

- (a) Mr Targett;
- (b) Ms Holcomb;
- (c) Mr King;
- (d) Mr Stephen;
- (e) Ms Lim; ~~and~~
- (f) Mr Whitfield

- (g) Mr Coffey.
- (h) Mr Kelly;
- (i) Ms Cobley;
- (j) Ms Challenor;
- (k) Ms Peacock;
- (l) Ms Williams;
- (m) Ms Wood; and
- (n) Mr Lees.

(together, **Westpac Officers**) became aware, or which ought reasonably to have come into his or her possession in the course of the performance of his or her respective duties as an officer of Westpac, was information of which Westpac was aware (as awareness is defined in ASX Listing Rule 19.12).

#### **BA. WESTPAC'S GROUP AUDIT AND ASSURANCE REPORTS**

59A. On or around 30 June 2014, Westpac's Group Assurance unit issued a report titled "AML/CTF International Funds Transfer Instructions Reporting – Audit".

##### **Particulars**

WBC.0201.0012.3460.

59B. On or around 3 July 2015, Westpac's Group Assurance unit issued a report titled "AML/CTF – Australia – Key High Risk Obligations Audit", which stated (*inter alia*) that: "There is no data reconciliation in place within Detica to validate the completeness of payment records processed. Any incomplete data processing may not be detected".

##### **Particulars**

WBC.0201.0015.6960.

59C. On or around 15 July 2015, Westpac's Group Assurance unit issued a draft Board Audit Committee Group Assurance Quarterly Report for the quarter ending 30 June 2015, which contained a Memorandum to the Westpac Group Executive Risk Committee entitled 'Long Term Resolution Issues'.

**Particulars**

WBC.0201.0018.6648 (at 6734, 6758, 6784-5).

59D. On or around 6 February 2018, Westpac's Group Audit unit issued a report titled "Westpac Designated Business Group Joint AML/CTF Program Part A Audit Report", which stated that the last audit of Westpac's Joint AML/CTF Program was in 2013.

**Particulars**

WCA.2000.0011.3926 at .3929.

59E. On or around 19 April 2018, Westpac's Group Audit unit issued a report titled "Westpac Designated Business Group Joint AML/CTF Program Part A (Phase 2)", which stated, among other things, that Westpac failed for several years to comply with the obligation under Part 9.6 of the AML/CTF Rules to subject its Part A Program to independent review on a regular basis.

**Particulars**

WBC.0201.0008.7044 at .7052.

**BB. AUSTRAC'S LITIGATION AGAINST COMMONWEALTH BANK OF AUSTRALIA**

59F. On 3 August 2017, AUSTRAC commenced civil penalty proceedings in the Federal Court of Australia against the Commonwealth Bank of Australia (CBA) (the AUSTRAC CBA Proceeding).

59G. In the AUSTRAC CBA Proceeding, AUSTRAC alleged, in summary, matters including the following:

- (a) from 5 November 2012 to 8 September 2015, CBA failed to give 53,506 threshold transaction reports (TTRs) to AUSTRAC for cash transactions of

\$10,000 or more through intelligent deposit machines (IDMs) within the time required by the AML/CTF Act (namely, 10 business days after the transaction occurred) (Late TTRs);

(b) In respect of the Late TTRs:

(i) the Late TTRs represented 95% of threshold transactions that occurred through IDMs and had a total value of \$624.7 million;

(ii) 1,640 of the Late TTRs (totalling about \$17.3 million) related to transactions with money laundering syndicates being investigated by the Australian Federal Police or accounts connected with those investigations;

(iii) 6 of the Late TTRs related to 5 customers who CBA had assessed as posing a potential risk of terrorism or terrorism financing;

(c) CBA failed to comply with its AML/CTF program because:

(i) it did not carry out any assessment of the ML/TF Risk of IDMs before their rollout in 2012;

(ii) failed to carry out any ML/TF Risk assessment in response to the exponential rise in cash deposits through IDMs, alerts raised by its internal transaction monitoring systems, or identification by law enforcement of significant instances of money laundering through IDMs; and

(iii) it took no steps to assess the ML/TF Risk of IDMs until mid-2015—three years after they were introduced (and after about \$8.91 billion in cash had been deposited through CBA IDMs);

(iv) at various times between about 20 October 2012 to 27 September 2016, CBA did not comply with the requirements of its AML/CTF program relating to monitoring transactions on 778,370 accounts;

- (d) CBA did not, at any stage and even after mid-2015, introduce appropriate risk-based systems and controls to mitigate and manage the higher ML/TF Risks it reasonably faced by providing designated services through IDMs;
- (e) CBA repeatedly failed to give suspicious matter reports (SMRs) to AUSTRAC either at all, or within the time required by s 41 of the AML/CTF Act; and
- (f) CBA failed to monitor its customers with a view to identifying, mitigating and managing ML/TF Risk, including because:
  - (i) in some instances no transaction monitoring alerts were raised for suspicious activity, and when alerts were raised they were not reviewed in a timely manner having regard to ML/TF risk; and
  - (ii) even after suspected money laundering or structuring on CBA accounts had been brought to CBA's attention (by law enforcement or through internal analysis), CBA often looked no further than whether or not to submit an SMR, and did not carry out mandatory enhanced due diligence as required or immediately terminate accounts.

### **Particulars**

*<http://www.austrac.gov.au/sites/default/files/20170803-concisestatement-cba-s.pdf>*

59H. On 3 August 2017 at approximately 12.26pm, AUSTRAC published:

- (a) a media release entitled "AUSTRAC seeks civil penalty orders against CBA", which linked to the Concise Statement by which the AUSTRAC CBA Proceeding was commenced; and
- (b) a tweet that stated that "@AUSTRAC today initiated civil penalty proceedings against CBA for serious non-compliance with AML/CTF Act" and provided a link to the media release,

**(3 August AUSTRAC Statement).**

### Particulars

- i) <http://www.austrac.gov.au/media/media-releases/austrac-seeks-civilpenalty-orders-against-cba>
- ii) <https://twitter.com/austrac/status/892934753967513600>, in the Twitter feed of “@AUSTRAC”;

59I. The 3 August AUSTRAC Statement, *inter alia*, stated that:

- (a). AUSTRAC had that day initiated civil penalty proceedings in the Federal Court against CBA for serious and systemic non-compliance with the AML/CTF Act; and
- (b). The AUSTRAC CBA Proceeding alleged 53,700 contraventions of the AML/CTF Act.

59J. After about 1.00PM on 3 August 2017, CBA’s share price declined substantially.

### Particulars

- i) On 3 August 2017, the opening price of CBA Shares was \$84.09, and increased to an intraday high was \$84.69 (reached at 12.44PM). The price of CBA Shares at 1.00PM was \$84.58, and the price thereafter declined to a closing price of \$83.97. The total traded volume was 2,372,029 shares.
- ii) On 4 August 2017, CBA Shares opened at \$82.51 and closed at \$80.72, on a traded volume of 9,239,819 shares.
- iii) The decline in the price of CBA Shares between 1.00PM on 3 August and the close of market on 4 August was \$3.86 (being 4.56% as against the price as at 1.00PM on 3 August 2017).
- iv) On 7 August 2017, the price of CBA Shares opened at \$80.11, being a further decline against the closing price on 4 August 2017.

59K. On 4 June 2018, AUSTRAC and CBA announced that they had agreed to resolve the AUSTRAC CBA Proceeding, with the parties to seek orders from the Court that CBA would pay a pecuniary penalty of \$700 million (the CBA Penalty).

### Particulars

*i) The AUSTRAC announcement regarding the resolution of the CBA Penalty Proceedings is available at <https://www.austrac.gov.au/austrac-and-cba-agree-700m-penalty>.*

*ii) CBA's announcement regarding the resolution of the CBA Penalty Proceedings is available at <https://www.commbank.com.au/guidance/newsroom/CBA-and-AUSTRAC-resolve-AMLCTF-proceedings-201806.html>*

59L. On 20 June 2018, the Federal Court of Australia ordered that CBA pay the Commonwealth the CBA Penalty, comprising:

- (a) \$170 million for CBA's failure to undertake ongoing customer due diligence, in contravention of s 36(1) of the AML/CTF Act;
- (b) in respect of CBA's contraventions of s 41(2)(a) of the AML/CTF Act (the obligation to submit SMRs):
  - (i) \$55 million for 40 occasions on which the Bank failed to give SMRs because it had already given such a report in respect of a customer within the previous three months;
  - (ii) \$40 million for 69 occasions on which the Bank failed to give SMRs in circumstances where it had received and acted on requests from law enforcement agencies for information;
  - (iii) \$15 million for discrete errors;
  - (iv) \$15 million for 29 occasions on which the Bank failed to give SMRs in respect of false customer identities;

- (c) \$125 million for failing to submit 53,506 TTRs within the required timeframe, in contravention of s 43(2) of the AML/CTF Act;
- (d) \$180 million for 14 instances of failing to undertake risk assessments and introduce sufficient and appropriate risk-based controls in respect of IDMs, in contravention of s 82(1) of the AML/CTF Act; and
- (e) \$100 million for CBA's failures to comply with the transaction monitoring program included in Part A of its joint AML/CTF Program (where the precise number of contraventions could not be ascertained).

#### **Particulars**

*Chief Executive Officer of the Australian Transaction Reports and Analysis Centre v Commonwealth Bank of Australia Limited [2018] FCA 930.*

59M. From 3 August 2017, Westpac was aware of the AUSTRAC CBA Proceeding.

#### **Particulars**

- i) *On 3 August 2017, officers of Westpac were aware of the CBA Penalty Proceeding, including Ms Holcomb (Chief Risk Officer) and Ms Lim (General Counsel and Chief Compliance Officer). (WBC.0201.0006.0577.)*
- ii) *On 3 August 2017, senior executives of Westpac were aware of the AUSTRAC CBA Proceeding, including Amanda Wood (Group MLRO), Tara Cahill (GM, Operational Risk, Financial Crime and Assurance), and Susie Peacock (Group Head of Financial Crime). (WBC.0201.0006.0577.)*
- iii) *On 4 August 2017, Mr Hartzler (CEO) was sent a briefing note that included a summary of the AUSTRAC CBA Proceeding. (WBC.0201.0006.0728, WBC.0201.0006.0731.)*

59N. From 4 June 2018 or shortly thereafter, Westpac was aware of the CBA Penalty.

## Particulars

- i) On 4 June 2018, senior executives of Westpac were aware of the CBA Penalty, including Melanie Hilton (Acting GM, Operational Risk & Financial Crime) and Amanda Wood (Group MLRO). (WCA.2000.0304.3976.)
- ii) On 8 June 2018, Westpac's Board were aware of the CBA Penalty, which was summarised in a memorandum to Westpac's Board. (WBD.012.001.7269 at .7278.)

## **C. CONTINUOUS DISCLOSURE CONTRAVENTIONS**

### **C.1 Westpac's knowledge**

#### **C.1.1 As at 30 June 2014**

59. On 30 June 2014, Mr Targett and Ms Holcomb received a 'Group Assurance Report – AML/CTF International Funds Transfer Instructions Reporting – Audit' dated 30 June 2014 that reported that:
- (a) there is inadequate end-to-end understanding, documentation and monitoring over the International Funds Transfer Instructions reporting process. As a result, there is no organisational view of the risks to such reporting or a full understanding of the impact of changes, which may result in non-compliance;
  - (b) there is no data reconciliation in place within Detica to validate the completeness of payment records processed. Any incomplete data processing may not be detected;
  - (c) more work is required to be taken to resolve a number of long outstanding data issues that impact Westpac's ability to comply with the International Funds Transfer Instruction reporting requirements; and
  - (d) the potential impact of each of the aforementioned issues was the potential for non-compliance with the International Funds Transfer Instructions reporting requirements, resulting in regulator intervention and fines.

### Particulars

WBC.0201.0012.3458 and WBC.0201.0012.3460

60. By reason of the matters in paragraph 59, by no later than 30 June 2014, it was the case that with respect to reports of international funds transfer instructions:
- (a) there was inadequate end-to-end understanding, documentation and monitoring over the IFTI reporting process resulting in there being no organisational view of the risks to IFTI reporting or a full understanding of the impact of changes which may result in non-compliance;
  - (b) there was no data reconciliation in place within Detica to validate the completeness of IFTI payment records processed such that incomplete data processing may not be detected;
  - (c) more work was required to be taken to resolve a number of long outstanding data issues that impacted Westpac's ability to comply with the IFTI reporting requirements; and
  - (d) the aforementioned issues gave rise to a real potential for non-compliance with IFTI reporting requirements, intervention by AUSTRAC and fines.
61. By no later than 30 June 2014, there was a significant risk that Westpac had contravened, and was continuing to contravene, its obligation to report international funds transfer instructions under the AML/CTF Act (the **30 June 2014 Risk of IFTI Non-Compliance Information**).

### Particulars

The applicant relies upon the matters in paragraph 60 above.

62. By no later than 30 June 2014, there was a significant risk that Westpac:
- (a) had contravened, and was continuing to contravene, its obligation to report international funds transfer instructions under the AML/CTF Act; and

- (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information).

**Particulars**

*The applicant relies upon the matters in paragraph 60 above.*

63. By no later than 30 June 2014, Westpac was failing, and had failed approximately 1.6 to 2.4 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act (the 30 June 2014 IFTI Reporting Failures Information).

**Particulars**

- (iii) During the period 5 November 2013 to 19 November 2018, Westpac:
- (iv) was the recipient of approximately 19,489,756 Incoming IFTIs from Citibank, SCB, Deutsche, Wells Fargo and PayPal Inc totalling approximately \$11.239 billion; and
- (v) lodged the approximately 19,489,756 reports to the AUSTRAC CEO more than 10 business days after the instructions were received by Westpac.
- (vi) The applicant relies on the matters pleaded in paragraph 60.

64. By around 30 June 2014:

- (a) Westpac was failing, and had failed approximately 1.6 million to 2.4 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 30 June 2014 IFTI Reporting Failures and Loss Information).

**Particulars**

The applicant repeats the particulars to paragraph 63 above.

65. On and from 30 June 2014 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 June 2014 Risk of IFTI Non-Compliance Information.

**Particulars**

Awareness of the information in paragraph 60

- (i) By reason of the matters pleaded in paragraph 59, Mr Targett (an officer of Westpac at the relevant time) and Ms Holcomb (an officer of Westpac from around 1 month after she received the report referred to in paragraph 59) were in possession of the information pleaded in paragraph 60.
- (ii) Further, Mr Targett and Ms Holcomb were required by the Incident Management Procedures and Guidance v 2.8 and/or the AML/CTF Program v 3.3 (which applied at the relevant time) (pleaded at particular (i) to paragraph 7C and particular (i)A) to paragraph 23 above, WBC.050.148.5337 and WPC.901.001.1307) to bring the information pleaded in paragraph 60 promptly to the attention of the following officers: Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield.

Awareness of the 30 June 2014 Risk of IFTI Non-Compliance Information

- (iii) By reason of the matters in subparagraph (i), or subparagraphs (i) and (ii), of these particulars:
  - (A) Mr Targett and Ms Holcomb were in possession of, or ought reasonably to have come into possession of; and

(B) Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield ought reasonably to have come into possession of.

the 30 June 2014 Risk of IFTI Non-Compliance Information.

(iv) Alternatively to subparagraph (iii) of these particulars, by reason of the matters in subparagraph (i) of these particulars, Mr Targett and Ms Holcomb were in possession of, or ought reasonably to have come into possession of, the 30 June 2014 Risk of IFTI Non-Compliance Information and were required by the Incident Management Procedures and Guidance v 2.8 and/or the AML/CTF Program v 3.3 (which applied at the relevant time) (pleaded at particular (i) to paragraph 7C and particular (i)A) to paragraph 23 above, WBC.050.148.5337 and WPC.901.001.1307) to bring that information promptly to the attention of the following officers: Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield such that Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield ought reasonably to have come into possession of the 30 June 2014 Risk of IFTI Non-Compliance Information.

66. On and from 30 June 2014 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information.

### **Particulars**

Awareness of the information in paragraph 60

(i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above.

Awareness of the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information

(ii) By reason of the matters in subparagraph (i) of these particulars:

(A) Mr Targett and Ms Holcomb were in possession of, or ought reasonably to have come into possession of; and

(B) Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield ought reasonably to have come into possession of,

the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information.

(iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraph (i) of the particulars to paragraph 65, Mr Targett and Ms Holcomb were in possession of, or ought reasonably to have come into possession of, the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information and were required by the Incident Management Procedures and Guidance v 2.8 and/or the AML/CTF Program v 3.3 (which applied at the relevant time) (pleaded at particular (i) to paragraph 7C and particular (i)A) to paragraph 23 above, WBC.050.148.5337 and WPC.901.001.1307) to bring that information promptly to the attention to the following officers: Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield such that Ms Kelly, Ms Lim, Ms Beesley, Mr King and Mr Whitfield ought reasonably to have come into possession of the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information.

67. On and from 30 June 2014 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 June 2014 IFTI Reporting Failures Information.

### **Particulars**

#### Awareness of the information in paragraph 60

(i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above.

Awareness of the 30 June 2014 IFTI Reporting Failures Information

(ii) By reason of the matters in subparagraph (i), Mr Targett, Ms Holcomb, Ms Kelly, Ms Lim, Ms Beesley, Mr King and/or Mr Whitfield ought to have caused Westpac to investigate the matters in paragraph 60 and detect and escalate the 30 June 2014 IFTI Reporting Failures Information to each of them.

68. On and from 30 June 2014 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 June 2014 IFTI Reporting Failures and Loss Information.

**Particulars**

Awareness of the information in paragraph 60

(i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above.

Awareness of the 30 June 2014 IFTI Reporting Failures and Loss Information

(ii) By reason of the matters in subparagraph (i), Mr Targett, Ms Holcomb, Ms Kelly, Ms Lim, Ms Beesley, Mr King and/or Mr Whitfield ought to have caused Westpac to investigate the matters in paragraph 60 and detect and escalate the 30 June 2014 IFTI Reporting Failures and Loss Information to each of them.

**C.1.2 As at 27 January 2015**

69. On 27 January 2015, Ms Lim and Mr Hassiem received a memorandum which stated:
- “The manual nature of the Correspondent Banking Due Diligence and the lack of automated transaction monitoring and ongoing due diligence creates a reactive environment with regard to Correspondent Banking risk management, i.e. investment is required for transaction monitoring, ongoing risk management and review cycle”.

### Particulars

WCA.2000.0157.0734; WCA.2000.0157.0735; WCA.2000.0157.2811.

70. By reason of the matters in paragraphs 59 and 69, by no later than 27 January 2015, it was the case that, in addition to the matters alleged at paragraph 60, Westpac's correspondent banking due diligence was manual in nature and there was a lack of automated transaction monitoring and ongoing due diligence which created a reactive environment with regard to correspondent banking risk management.
71. By no later than 27 January 2015, there was a significant risk that Westpac was in serious and systemic non-compliance with the AML/CTF Act because Westpac had deficiencies in its processes for complying with the AML/CTF Act in the following areas:
- (a) reports of international funds transfer instructions; and
  - (b) due diligence assessments of correspondent banking relationships,
- (the 27 January 2015 Risk of Systemic Non-Compliance Information).

### Particulars

The applicant relies upon the matters in paragraphs 60 and 70 above.

72. By no later than 27 January 2015, there was a significant risk that Westpac:
- (a) was in serious and systemic non-compliance with the AML/CTF Act because Westpac had deficiencies in its processes for complying with the AML/CTF Act in the following areas:
    - (i) reports of international funds transfer instructions; and
    - (ii) due diligence assessments of correspondent banking relationships; and
  - (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,
- (the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information).

### Particulars

The applicant relies upon the matters in paragraphs 60 and 70 above.

73. On and from 27 January 2015 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 27 January 2015 Risk of Systemic Non-Compliance Information.

### Particulars

Awareness of the information in paragraph 60

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above.

Awareness of the information in paragraph 70

- (ii) By reason of the matters pleaded in paragraph 69, Ms Lim and Mr Hassiem were in possession of the information pleaded in paragraph 70.
- (iii) Further, Ms Lim and Mr Hassiem were required by the Incident Management Procedures and Guidance v 2.8 and/or the AML/CTF Program v 3.3 or 4.0 (which applied at the relevant time) (pleaded at particular i) to paragraph 7C and particulars i)A) and i)B) to paragraph 23 above, WBC.050.148.5337, WPC.901.001.1307 and WPC.901.001.1402) to bring the information pleaded in paragraph 70 promptly to the attention of the following officers: Ms Kelly, Mr Hartzler, Ms Holcomb, Ms Lim, Ms Beesley, Mr King and Mr Whitfield.

Awareness of the 27 January 2015 Risk of Systemic Non-Compliance Information

- (iv) By reason of the matters in subparagraphs (i) to (iii) of these particulars, Ms Kelly, Ms Lim, Ms Holcomb, Ms Beesley, Mr King and Mr Whitfield ought reasonably to have come into possession of the 27 January 2015 Risk of Systemic Non-Compliance Information.

74. On and from 27 January 2015 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information.

### **Particulars**

#### Awareness of the information in paragraph 60

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above.

#### Awareness of the information in paragraph 70

- (ii) The applicant repeats subparagraphs (ii) and (iii) of the particulars to paragraph 73 above.

#### Awareness of the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information

- (iii) By reason of the matters in subparagraphs (i) and (ii) of these particulars, Ms Kelly, Ms Lim, Ms Holcomb, Ms Beesley, Mr King and Mr Whitfield ought reasonably to have come into possession of, the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information.

### **C.1.3 As at 15 July 2015**

75. On or around 15 July 2015, Mr Hartzler, Mr King and Ms Holcomb received a draft Board Audit Committee Group Assurance Quarterly Report for the quarter ending 30 June 2015 which contained a Memorandum to the Westpac Group Executive Risk Committee entitled “Long Term Resolution Issues” which memorandum recorded in respect of “Audit – AML/CTF – International Funds Transfer Instructions Reporting” the following issues that were first reported in June 2014 and had not been resolved:
- (a) more work is required to be undertaken to resolve a number of long outstanding data issues that impact Westpac’s ability to comply with the International Funds Transfer Instruction Reporting requirements;

- (b) there is inadequate end-to-end understanding, documentation and monitoring over the International Funds Transfer Instructions reporting process. As a result, there is no organisational view of the risks to such reporting or a full understanding of the impact of changes, which may result in non-compliance; and
- (c) there is no data reconciliation in place within Detica to validate the completeness of payment records processed. Any incomplete data processing may not be detected.

#### **Particulars**

WBC.0201.0018.6646; WBC.0201.0018.6648 at .6734, .6758 and .6784 to .6785.

- 76. By reason of the matters in paragraph 75, by no later than 15 July 2015, it was the case that the matters alleged at paragraph 60 persisted.
- 77. By no later than 15 July 2015, there was a significant risk that Westpac had contravened, and was continuing to contravene, its obligation to report international funds transfer instructions under the AML/CTF Act (the **15 July 2015 Risk of IFTI Non-Compliance Information**).

#### **Particulars**

The applicant relies upon the matters in paragraph 76 above.

- 78. By no later than 15 July 2015, there was a significant risk that Westpac:
  - (a) had contravened, and was continuing to contravene, its obligation to report international funds transfer instructions under the AML/CTF Act; and
  - (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs.

(the **15 July 2015 Risk of IFTI Non-Compliance and Loss Information**).

### Particulars

The applicant relies upon the matters in paragraph 76 above.

79. By around 15 July 2015, Westpac was failing, and had failed approximately 4 million to 6 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act (the 15 July 2015 IFTI Reporting Failures Information).

### Particulars

- (i) The applicant repeats subparagraph (iii) of the particulars to paragraph 63 above.
- (ii) The applicant relies on the matters pleaded in paragraphs 60 and 76 above.

80. By around 15 July 2015:

- (a) Westpac was failing, and had failed approximately 4 million to 6 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 15 July 2015 IFTI Reporting Failures and Loss Information).

### Particulars

- (i) The applicant repeats subparagraph (iii) of the particulars to paragraph 63 above.
- (ii) The applicant relies on the matters pleaded in paragraph 60 and 76 above.

81. On and from 15 July 2015 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 July 2015 Risk of IFTI Non-Compliance Information.

### **Particulars**

#### Awareness of the information in paragraph 76

- (i) By reason of the matters in paragraph 75, Mr Hartzler, Mr King and Ms Holcomb were in possession of the information pleaded in paragraph 76.

#### Awareness of the 15 July 2015 Risk of IFTI Non-Compliance Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr King and Ms Holcomb were in possession of, or ought reasonably to have come into possession of, the 15 July 2015 Risk of IFTI Non-Compliance Information.

82. On and from 15 July 2015 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 July 2015 IFTI Risk of Non-Compliance and Loss Information.

### **Particulars**

#### Awareness of the information in paragraph 76

- (i) The applicant repeats subparagraph (i) of the particulars to paragraph 81 above.

#### Awareness of the 15 July 2015 Risk of IFTI Non-Compliance and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr King and Ms Holcomb were in possession of, or ought reasonably to have come into possession of, the 15 July 2015 Risk of IFTI Non-Compliance and Loss Information.

83. On and from 15 July 2015 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 July 2015 IFTI Reporting Failures Information.

## Particulars

### Awareness of the information in paragraphs 60 and 76

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above and subparagraph (i) of the particulars to paragraph 81 above.

### Awareness of the 15 July 2015 IFTI Reporting Failures Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Ms Holcomb, Ms Kelly, Ms Lim, Ms Beesley, Mr King, Mr Whitfield and/or Mr Hartzler ought to have caused Westpac to investigate the matters in paragraphs 60 and/or 76 and detect and escalate the 15 July 2015 IFTI Reporting Failures Information to each of them.

84. On and from 15 July 2015 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 July 2015 IFTI Reporting Failures and Loss Information.

## Particulars

### Awareness of the information in paragraphs 60 and 76

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above and subparagraph (i) of the particulars to paragraph 81 above.

### Awareness of the 15 July 2015 IFTI Reporting Failures and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Ms Holcomb, Ms Kelly, Ms Lim, Ms Beesley, Mr King, Mr Whitfield and/or Mr Hartzler ought to have caused Westpac to investigate the matters in paragraphs 60 and/or 76 and detect and escalate the 15 July 2015 IFTI Reporting Failures and Loss Information to each them.

**C.1.4 As at 1 December 2016**

85. On 9 August 2016, LitePay was launched in the Philippines without detection scenarios specifically tailored to detect indicators of child exploitation in the Philippines in circumstances where:
- (a) prior to the launch of LitePay:
    - (i) AUSTRAC had published documents disclosing indicators of child exploitation in the Philippines;
    - (ii) the Australian Federal Police had sent to Westpac an email describing indicators of child exploitation in the Philippines;
  - (a) on 17 May 2016, Ms Bridie Pearce (Senior Manager, Financial Crime Compliance, WIB Compliance) sent an email to Mr Hugh Logan (Senior Manager, Financial Crime Compliance, WIB Compliance) and Mr Hassiem suggesting that the following detection scenarios be created for LitePay “to focus in on child exploitation” and that any detection scenarios applied to LitePay also be applied to all international payment systems:
    - (i) “multiple customer transfer fund to one beneficiary account over a longer time frame”; and
    - (ii) “identification of payments going to the Cebu region via a branch BIC”;
  - (b) on 17 May 2016, WIB Financial Crime Compliance sent a memorandum to Ms Pearce and Mr Hassiem recommending that, based on a review of information from AUSTRAC regarding the typologies surrounding child exploitation and terrorism financing in the Philippines, a new detection scenario “Frequent Low Value Payments AUD\$10.00 – AUD\$100.00” be developed for LitePay as it offered a “more targeted approach to help mitigate the risks identified”; and
  - (c) despite the matters alleged at subparagraphs (a) to (c), on 5 August 2016, Ms Pearce sent a Final Risk Assessment for LitePay to Mr Hassiem copied to Ms Williams which did not recommend that any of the detection scenarios

referred to in subparagraphs (b) and (c) that were specifically tailored to detect indicators of child exploitation in the Philippines be applied to LitePay.

### **Particulars**

- (i) As to subparagraph 85(a):*
  - (ii) on 1 June 2013, AUSTRAC published “Typologies and case studies report” (referred to in WCA.2100.0003.3186 at .3188; SAFA, [280]);*
  - (iii) on 1 June 2015, AUSTRAC published “Online transactions lead to convictions for child sex offences (referred to in WCA.2100.0001.3186 at .3188; SAFA, [280]);*
  - (iv) on 22 June 2015, the Australian Federal Police sent an email to Westpac (WCA.2100.0001.7488);*
  - (v) As to subparagraph 60(a), WCA.2100.0001.7789;*
  - (vi) As to subparagraph 60(b), WCA.2000.0086.7013;*
  - (vii) As to subparagraph 60(c), WCA.2000.0172.3548.*
86. On and from 9 August 2016 (being when LitePay was launched), and despite the matters alleged in paragraph 85, Westpac’s international payment systems did not have in place detection scenarios specifically tailored to detect indicators of child exploitation in the Philippines.
87. On 18 November 2016, Ms Williams, Ms Pearce and Mr Hassiem received an email circulating the results of Westpac’s 3 month post-implementation review of the detection scenarios that had been applied to LitePay which noted that, despite a suspicious matter report being submitted based on suspicion of child exploitation and four other customers having been identified for additional review actions, no detection scenario alerts had been triggered.

### **Particulars**

WCA.2004.0016.0088

88. On 1 December 2016, personnel in Group Technology - Infrastructure & Operations (names currently unknown) identified that backup systems were incorrectly configured which resulted in Westpac not complying with requirements to retain records of electronic funds transfer instructions for 7 years.

**Particulars**

(i) WCA.2010.0011.4307 [“Issues” sheet, row 231 columns J and R]; WCA.2001.0095.2705 at .2711 (host WCA.2001.0095.2704)).

(ii) Further particulars may be provided after further discovery.

89. By reason of the matters in paragraphs 59, 69, 75 and 85 to 88, by no later than 1 December 2016, it was the case that, in addition to the matters alleged at paragraphs 60, 70 and 76:

- (a) Westpac was not monitoring or adequately monitoring LitePay customers for known indicators of child exploitation in the Philippines;
- (b) Westpac was not monitoring or adequately monitoring customers across all of its international payments systems for known indicators of child exploitation in the Philippines; and
- (c) backup systems were incorrectly configured which resulted in Westpac not complying with requirements to retain records of electronic funds transfer instructions for 7 years.

90. By no later than 1 December 2016, there was a significant risk that Westpac was in serious and systemic non-compliance with the AML/CTF Act because Westpac had deficiencies in its processes for complying with the AML/CTF Act in two or more of the following areas:

- (a) reports of international funds transfer instructions;
- (b) due diligence assessments of correspondent banking relationships;
- (c) ongoing customer due diligence; and/or

(d) retention of records about electronic funds transfer instructions.

**(the 1 December 2016 Risk of Systemic Non-Compliance Information).**

**Particulars**

*The applicant relies upon the matters in paragraphs 60, 70, 76 and 89 above.*

91. By no later than 1 December 2016, there was a significant risk that Westpac:

(a) was in serious and systemic non-compliance with the AML/CTF Act because Westpac had deficiencies in its processes for complying with the AML/CTF Act in two or more of the following areas:

(i) reports of international funds transfer instructions;

(ii) due diligence assessments of correspondent banking relationships;

(iii) ongoing customer due diligence; and/or

(iv) retention of records about electronic funds transfer instructions; and

(b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs.

**(the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information).**

**Particulars**

*The applicant relies upon the matters in paragraphs 60, 70, 76 and 89 above.*

92. By no later than 1 December 2016, Westpac was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines (the 1 December 2016 Failure to Monitor for Child Exploitation Information).

**Particulars**

*The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.*

93. By no later than 1 December 2016:

- (a) Westpac was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines and was thereby contravening its obligation to carry out ongoing customer due diligence under the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information).

**Particulars**

*The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.*

94. Alternatively to paragraphs 92 and 93, by no later than 1 December 2016, there was a significant risk that Westpac was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines (the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information).

**Particulars**

*The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.*

95. By no later than 1 December 2016, there was a significant risk that Westpac:

- (a) was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines and was thereby contravening its obligation to carry out ongoing customer due diligence under the AML/CTF Act; and

- (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information).

**Particulars**

The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.

96. On and from 1 December 2016 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 1 December 2016 Risk of Systemic Non-Compliance Information.

**Particulars**

Awareness of the information in paragraph 60

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 65 above.
- (ii) Further, by reason of the matters pleaded in paragraph 75 Mr Hartzler, Mr King and Ms Holcomb were in possession of the information pleaded in paragraph 60.

Awareness of the information in paragraph 70

- (iii) The applicant repeats subparagraphs (ii) and (iii) of the particulars to paragraph 73 above.

Awareness of the information in paragraph 76

- (iv) The applicant repeats subparagraph (i) of the particulars to paragraph 81.

Awareness of the information in subparagraph 89(a)

- (v) By reason of the matters pleaded in paragraphs 85 and 87, Ms Pearce, Mr Hassiem and Ms Williams were in possession of the information pleaded in paragraph 89(a).

- (vi) Further, Ms Pearce, Mr Hassiem and Ms Williams were required by the Incident Management Procedures and Guidance v 2.9 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring the information pleaded in paragraph 89(a) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams.

Awareness of the information in subparagraph 89(b)

- (vii) By reason of the matters pleaded in paragraph 86, Ms Pearce and Mr Hassiem were in possession of the information pleaded in paragraph 89(b).
- (viii) Further, Ms Pearce and Mr Hassiem were required by the Incident Management Procedures and Guidance v 2.9 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring the information pleaded in paragraph 89(b) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams.

Awareness of the information in subparagraph 89(c)

- (ix) By reason of the matters pleaded in paragraph 88, personnel in Group Technology - Infrastructure & Operations were in possession of the information pleaded in paragraph 89(c).
- (x) Further, personnel in Group Technology - Infrastructure & Operations were required by the Incident Management Procedures and Guidance v 2.9 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring the information pleaded in

paragraph 89(c) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams.

Awareness of the 1 December 2016 Risk of Systemic Non-Compliance Information

(xi) By reason of some or all of the matters in subparagraphs (i) to (x) of these particulars,

(A) Mr Hassiem was in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams or ought reasonably to have come into possession of,

the 1 December 2016 Risk of Systemic Non-Compliance Information.

(xii) Alternatively to subparagraph (xi) of these particulars, by reason of the matters in subparagraph (ii) of the particulars to paragraph 73 and subparagraphs (v) or (vii) of these particulars, Mr Hassiem was in possession of, or ought reasonably to have come into possession of, the 1 December 2016 Risk of Systemic Non-Compliance Information and was required by the Incident Management Procedures and Guidance v 2.9 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of the 1 December 2016 Risk of Systemic Non-Compliance Information.

97. On and from 1 December 2016 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information.

### Particulars

#### Awareness of the information in paragraphs 60, 70, 76 and 89

- (i) The applicant repeats subparagraphs (i) to (x) of the particulars to paragraph 96 above.

#### Awareness of the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information

- (ii) By reason of some or all of the matters in subparagraph (i) of these particulars:

(A) Mr Hassiem, was in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of,

the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraph (ii) of the particulars to paragraph 73 and subparagraphs (v) or (vii) of the particulars to paragraph 96, Mr Hassiem was in possession of, or ought reasonably to have come into possession of, the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information and was required by the Incident Management Procedures and Guidance v 2.9 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams such that Mr Hartzler,

Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information.

98. On and from 1 December 2016 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 1 December 2016 Failure to Monitor for Child Exploitation Information.

### **Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (v) to (viii) of the particulars to paragraph 96 above.

Awareness of the 1 December 2016 Failure to Monitor for Child Exploitation Information

- (ii) By reason of some or all of the matters in subparagraph (i) of these particulars:

(A) Ms Pearce, Mr Hassiem and Ms Williams were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Mr Lim and Ms Peacock ought reasonably to have come into possession of,

the 1 December 2016 Failure to Monitor for Child Exploitation Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraphs (v) and (vii) of the particulars to paragraph 96, Ms Pearce, Mr Hassiem and Ms Williams were in possession of, or ought reasonably to have come into possession of, the 1 December 2016 Failure to Monitor for Child Exploitation Information and were required by the Incident Management Procedures and Guidance v 2.9 (which applied at the relevant time)

and/or the AML/CTF Program v 4.1 (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of the 1 December 2016 Failure to Monitor for Child Exploitation Information.

99. On and from 1 December 2016 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information.

#### **Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (v) to (viii) of the particulars to paragraph 96 above.

Awareness of the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information

- (ii) By reason of some or all of the matters in subparagraph (i) of these particulars,

(A) Ms Pearce, Mr Hassiem and Ms Williams were in possession of, or ought reasonably to have come into possession of, and

(B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Mr Lim and Ms Peacock ought reasonably to have come into possession of,

the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraphs (v) and (vii) of the

particulars to paragraph 96, Ms Pearce, Mr Hassiem and Ms Williams were in possession of, or ought reasonably to have come into possession of, the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information and were required by the Incident Management Procedures and Guidance v 2.9 (which applied at the relevant time) and/or the AML/CTF Program v 4.1 (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information.

100. On and from 1 December 2016 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information.

#### **Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (v) to (viii) of the particulars to paragraph 96 above.

Awareness of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information

- (ii) By reason of some or all of the matters in subparagraph (i) of these particulars.
- (A) Ms Pearce, Mr Hassiem and Ms Williams, were in possession of, or ought reasonably to have come into possession of, and

(B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Mr Lim and Ms Peacock or ought reasonably to have come into possession of,

the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information.

(iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraphs (v) and (vii) of the particulars to paragraph 96, Ms Pearce, Mr Hassiem and Ms Williams were in possession of, or ought reasonably to have come into possession of, the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information and were required by the Incident Management Procedures and Guidance v 2.9 (which applied at the relevant time) and/or the AML/CTF Program v 4.1 (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information.

101. On and from 1 December 2016 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information.

### **Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

(i) The applicant repeats subparagraphs (v) to (viii) of the particulars to paragraph 96 above.

Awareness of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information

(ii) By reason of some or all of the matters in subparagraph (i) of these particulars:

(A) Ms Pearce, Mr Hassiem and Ms Williams, were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Mr Lim and Ms Peacock ought reasonably to have come into possession of,

the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information.

(iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraphs (v) and (vii) of the particulars to paragraph 96, Ms Pearce, Mr Hassiem and Ms Williams were in possession of, or ought reasonably to have come into possession of, the 1 December 2016 Risk of Child Exploitation and Loss Information and were required by the Incident Management Procedures and Guidance v 2.9 (which applied at the relevant time) and/or the AML/CTF Program v 4.1 (pleaded at particular (ii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.8007.0057.0218 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Williams ought reasonably to have come into possession of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information.

**C.1.5 As at 31 August 2017**

102. By around 22 May 2017:

(a) Mr Keren Levin (Team Lead, Digital Transformation Technology) sent an email to Mr Ken Hard (Associate Director, Global Transaction Services) and Mr Eraj

Ratnayake (Senior Manager, Global Transaction Services) stating, in response to a question “Would you please confirm all of the following WIBS [Westpac Integrated Banking Systems] Melb inward payments from these banks are being IFTI reported” that:

“Standard Charter is not part of the IFTI process”;

**Particulars**

WCA.8009.0002.7583;WCA.2001.0014.0561;  
WCA.2001.0014.0562 at .0582.

- (b) Ms Challenor received a copy of a document titled “ACM & Low Value Compliance Remediation” that recorded the following “issue” with respect to the obligation in respect of “Sanction Screening, AML Screening and IFTI Reporting for Australia”:

“ACM Direct for SCB: IFTI & Screening required, only AUD”.

**Particulars**

WCA.8009.0002.7585, WCA.8009.0002.7586 at 7587,  
WCA.8902.0004.1338.

103. On around 8 August 2017, following the commencement of the AUSTRAC CBA Proceeding, Ms Challenor commenced a review of IFTI reporting to understand if Westpac was meeting its reporting obligations to AUSTRAC.

**Particulars**

WCA.3001.0029.8675 at .8682; WPC.0005.0007.0001 at .0022 to 24; and WPC.0005.0009.0001 at .0010 to .0011.

104. In around August 2017, the non-reporting of Citibank IFTIs was identified by one junior employee (name currently unknown) in Digital Transformation Technology.

**Particulars**

WCA.2100.0001.5881 at .5999; SAFA, [320(e)(ii)].

Further particulars may be provided after discovery.

105. On 9 August 2017:

(a) Ken Hard (Associate Director, Global Transaction Services) sent an email to Eraj Ratnayake (Senior Manager, Global Transaction Services) that stated:

“SBC Direct data is not being reported in IFTI reporting and should be added, if required”; and

(b) Sybil Crasto (Director, Global Transaction Services) and Mr Ratnayake received an email that stated:

“Looks like we may have a problem with reporting for the Standard Chartered Direct Model (Uses the Off System BSB)”.

**Particulars**

WCA.3001.0029.8538.

106. On 10 August 2017, Mr Ratnayake and Mr Hard received an email forwarding emails that stated:

(a) “Can we please take some time this morning to get a consolidated view together on the actual IFTI position we are in for SCB? This is an urgent task as there is CEO level focus across this current review given the CBA issues from last week”; and

(b) “Here is the list of ... what is IFTI reported, there are two file [sic] for SCB ... that are not reported...”.

**Particulars**

WCA.8009.0003.3076; WCA.8009.0003.3091.

107. By reason of paragraphs 102 and 103 to 106, by no later than 31 August 2017, it was the case that Westpac:

(a) was not reporting to AUSTRAC IFTIs received from SCB; and

(b) was not reporting to AUSTRAC IFTIs received from Citibank.

108. By no later than 31 August 2017, Westpac had contravened, and was continuing to contravene, its obligation to report international funds transfer instructions under the AML/CTF Act (the 31 August 2017 IFTI Non-Compliance Information).

**Particulars**

*The applicant relies upon the matters in paragraph 107(a) and/or 107(b) above.*

109. By no later than 31 August 2017:

- (a) Westpac had contravened, and was continuing to contravene, its obligation to report international funds transfer instructions under the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 31 August 2017 IFTI Non-Compliance and Loss Information).

**Particulars**

*The applicant relies upon the matters in paragraph 107(a) and/or 107(b) above.*

110. By around 31 August 2017, Westpac was failing, and had failed approximately 9 million to 13.5 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act (the 31 August 2017 IFTI Reporting Failures Information).

**Particulars**

- (i) *The applicant repeats subparagraph (iii) of the particulars to paragraph 63 above.*
- (ii) *The applicant relies on the matters pleaded in paragraphs 60, 76 and 107 above.*

111. By around 31 August 2017:

- (a) Westpac was failing, and had failed approximately 9 million to 13.5 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 31 August 2017 IFTI Reporting Failures and Loss Information).

**Particulars**

- (i) The applicant repeats subparagraph (iii) of the particulars to paragraph 63 above.
- (ii) The applicant relies on the matters pleaded in paragraphs 60, 76 and 107 above.

112. On and from 31 August 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 August 2017 IFTI Non-Compliance Information.

**Particulars**

Awareness of the information in subparagraph 107(a)

- (i) By reason of the matters pleaded in paragraphs 102, 105 and 106, Ms Challenor, Ms Crasto, Mr Levin, Mr Hard and Mr Ratnayake were in possession of the information pleaded in paragraph 107(a).
- (ii) Further, Ms Challenor, Ms Crasto, Mr Levin, Mr Hard and Mr Ratnayake were required by the Incident Management Procedures & Guidance v 3.0 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (iii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.3001.0380.0001 and WPC.901.001.1498) to bring the information pleaded in

paragraph 107(a) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood.

Awareness of the information in subparagraph 107(b)

- (iii) By reason of the matters pleaded in paragraph 104, a junior employee in Digital Transformation Technology was in possession of the information pleaded in paragraph 107(b).
- (iv) Further, the junior employee in Digital Transformation Technology was required by the Incident Management Procedures & Guidance v 3.0 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (iii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.3001.0380.0001 and WPC.901.001.1498) to bring the information pleaded in paragraph 107(b) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood.

Awareness of the 31 August 2017 IFTI Non-Compliance Information

- (v) By reason of the matters in subparagraphs (i) to (iv) of these particulars:
  - (A) Ms Challenor, Ms Crasto, Mr Levin, Mr Hard, Mr Ratnayake and the junior employee in Digital Transformation Technology, were in possession of or ought reasonably to have come into possession of; and
  - (B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of,

the 31 August 2017 IFTI Non-Compliance Information.

- (vi) Alternatively to subparagraph (v) of these particulars, by reason of the matters in subparagraphs (i) and (iii) of these particulars, Ms Challenor, Ms Crasto, Mr Levin, Mr Hard, Mr Ratnayake and the junior employee in Digital

Transformation Technology were in possession of, or ought reasonably to have come into possession of, the 31 August 2017 IFTI Non-Compliance Information and were required by the Incident Management Procedures & Guidance v 3.0 and/or the AML/CTF Program v 4.1 (pleaded at particular (iii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.3001.0380.0001 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into the possession of the 31 August 2017 IFTI Non-Compliance Information.

113. On and from 31 August 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 August 2017 IFTI Non-Compliance and Loss Information.

#### **Particulars**

##### Awareness of the information in paragraph 107

- (i) The applicant repeats subparagraphs (i) to (iv) of the particulars to paragraph 112 above.

##### Awareness of the 31 August 2017 IFTI Non-Compliance and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars:
- (A) Ms Challenor, Ms Crasto, Mr Levin, Mr Hard, Mr Ratnayake, the junior employee in Digital Transformation Technology, were in possession of; and
- (B) Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of.

the 31 August 2017 IFTI Non-Compliance and Loss Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in subparagraphs (i) and (iii) of the particulars to paragraph (i), Ms Challenor, Ms Crasto, Mr Levin, Mr Hard, Mr Ratnayake and the junior employee in Digital Transformation Technology were in possession of, or ought reasonably to have come into possession of, the 31 August 2017 IFTI Non-Compliance and Loss Information and were required by the Incident Management Procedures & Guidance v 3.0 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (iii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.3001.0380.0001 and WPC.901.001.1498) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of the 31 August 2017 IFTI Non-Compliance Information.

114. On and from 31 August 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 August 2017 IFTI Reporting Failures Information.

#### **Particulars**

##### Awareness of the information in paragraphs 60, 76 and 107

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 96 above, subparagraph (i) of the particulars to paragraph 81 above and subparagraphs (i) to (iv) of the particulars to paragraph 112 above.

##### Awareness of the 31 August 2017 IFTI Reporting Failures Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Ms Holcomb, Mr Hartzler, Ms Cobley, Mr King,

Ms Lim, Ms Peacock, Ms Wood, Ms Challenor, Ms Crasto, Mr Levin, Mr Hard and/or Mr Ratnayake ought to have caused Westpac to investigate the matters in paragraphs 60, 76 and/or 107 and detect and escalate the 31 August 2017 IFTI Reporting Failures Information to Ms Holcomb, Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock, Ms Wood and Ms Challenor.

115. On and from 31 August 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 August 2017 IFTI Reporting Failures and Loss Information.

### **Particulars**

#### Awareness of the information in paragraph 60, 76 and 107

- (i) The applicant repeats subparagraphs (i), and (ii) of the particulars to paragraph 96 above, subparagraph (i) of the particulars to paragraph 81 and subparagraphs (i) to (iv) of the particulars to paragraph 112 above.

#### Awareness of the 31 August 2017 IFTI Reporting Failures and Loss Information

- (ii) By reason of the matters in subparagraph (i), Ms Holcomb, Mr Hartzler, Ms Cobley, Mr King, Ms Lim, Ms Ms Peacock, Ms Wood, Challenor, Ms Crasto, Mr Levin, Mr Hard and/or Mr Ratnayake ought to have caused Westpac to investigate the matters in paragraphs 60, 76 and/or 107 and detect and escalate the 31 August 2017 IFTI Reporting Failures and Loss Information to Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock, Ms Wood and Ms Challenor.

### **C.1.6 As at 30 September 2017**

116. In around August to September 2017, Ms Wood reviewed Part A of Westpac's AML/CTF Program and became aware, alternatively formed the opinion, that the Program did not address, or sufficiently address, all of Westpac's obligations under the AML/CTF Act and did not provide sufficiently detailed guidance for the business

to implement the procedures and controls required for the business to comply with the AML/CTF Act.

### **Particulars**

WPC.0005.0004.0001 at .0019.

117. By reason of the matters in paragraphs 69, 75, 85 to 88, 102, 104 to 106 and 116, by no later than 30 September 2017, it was the case that, in addition to the matters alleged paragraphs 70, 76, 89 and 107, Westpac's AML/CTF Program did not address, or sufficiently address, all of Westpac's obligations under the AML/CTF Act and did not provide sufficiently detailed guidance for the business to implement the procedures and controls required for the business to comply with the AML/CTF Act.
118. By no later than 30 September 2017, Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened, and was continuing to contravene, the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
- (a) due diligence assessments of correspondent banking relationships;
  - (b) ongoing customer due diligence;
  - (c) retention of records about electronic funds transfer instructions; and/or
  - (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program,

(the 30 September 2017 Systemic Non-Compliance Information).

### **Particulars**

The applicant relies upon the matters in paragraphs 70, 89, 107 and 117 above.

119. By no later than 30 September 2017:
- (a) Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened, and was continuing to contravene, the AML/CTF

Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence;
  - (iii) retention of records about electronic funds transfer instructions; and/or
  - (iv) the adoption and maintenance of an anti-money laundering and counter-terrorism financing program, and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 30 September 2017 Systemic Non-Compliance and Loss Information).

#### **Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107 and 117 above.*

120. Alternatively to paragraphs 118 and 119, by no later than 30 September 2017, there was a significant risk that Westpac was in serious and systemic non-compliance with the AML/CTF Act because Westpac had deficiencies in its processes for complying with the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (a) due diligence assessments of correspondent banking relationships;
- (b) ongoing customer due diligence;
- (c) retention of records about electronic funds transfer instructions; and/or
- (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program.

(the 30 September 2017 Risk of Systemic Non-Compliance Information).

### **Particulars**

*The applicant relies upon the matters in paragraphs 70, 76, 89, 107 and 117 above.*

121. By no later than 30 September 2017, there was a significant risk that Westpac:
- (a) was in serious and systemic non-compliance with the AML/CTF Act because Westpac had deficiencies in its processes for complying with the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
    - (i) due diligence assessments of correspondent banking relationships;
    - (ii) ongoing customer due diligence;
    - (iii) retention of records about electronic funds transfer instructions; and/or
    - (iv) the adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and
  - (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs.

(the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information).

### **Particulars**

*The applicant relies upon the matters in paragraphs 70, 76, 89, 107 and 117 above.*

122. On and from 30 September 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 September 2017 Systemic Non-Compliance Information.

## Particulars

### Awareness of the information in paragraphs 70, 89 and 107

- (i) The applicant repeats subparagraphs (ii) and (iii) of the particulars to paragraph 73, subparagraphs (v) to (x) of the particulars to paragraph 96 and subparagraphs (i) to (iv) of the particulars to paragraph 112 above.

### Awareness of the information in paragraph 117

- (ii) By reason of the matters pleaded in paragraph 116, Ms Wood was in possession of the information pleaded in paragraph 117.
- (iii) Further, Ms Wood was required by the Incident Management Procedures & Guidance v 3.0 and/or the AML/CTF Program v 4.1 (which applied at the relevant time) (pleaded at particular (iii) to paragraph 7C and particular (i)C) to paragraph 23 above, WCA.3001.0380.0001 and WPC.901.001.1498) to bring the information pleaded in paragraph 117 promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim and Ms Peacock.

### Awareness of the 30 September 2017 Systemic Non-Compliance Information

- (iv) By reason of the matters in subparagraphs (i) to (iii) of these particulars, Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of the 30 September 2017 Systemic Non-Compliance Information.

123. On and from 30 September 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 September 2017 Systemic Non-Compliance and Loss Information.

### Particulars

#### Awareness of the information in paragraphs 70, 89, 107 and 117

- (i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 122 above.

#### Awareness of the 30 September 2017 Systemic Non-Compliance and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of, the 30 September 2017 Systemic Non-Compliance and Loss Information.

124. On and from 30 September 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 September 2017 Risk of Systemic Non-Compliance Information.

### Particulars

#### Awareness of the information in paragraphs 70, 76, 89, 107 and 117

- (i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 122 above.
- (ii) The applicant repeats subparagraph (i) of the particulars to paragraph 81 above.

#### Awareness of the 30 September 2017 Risk of Systemic Non-Compliance Information

- (iii) By reason of the matters in subparagraphs (i) and (ii) of these particulars:
  - (A) Mr Hartzler, Mr King and Ms Holcomb were in possession of, or ought reasonably to have come into possession of; and

(B) Ms Cobley, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of, the 30 September 2017 Risk of Systemic Non-Compliance Information.

125. On and from 30 September 2017 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information.

**Particulars**

Awareness of the information in paragraphs 70, 76, 89, 107 and 117

- (i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 122 above.
- (ii) The applicant repeats subparagraph (i) of the particulars to paragraph 81 above.

Awareness of the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information

- (iii) By reason of the matters in subparagraph (i) of these particulars:
- (A) Mr Hartzler, Mr King and Ms Holcomb were in possession of, or ought reasonably to have come into possession of; and
- (B) Ms Cobley, Ms Lim, Ms Peacock and Ms Wood ought reasonably to have come into possession of, the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information.

**C.1.7 As at 31 May 2018**

126. By 7 November 2017, Ms Cobley received (and Mr Hassiem and Ms Challenor received an extract from) a draft of Deloitte’s “Project Dart AML/CFT Current State Assessment and Retrospective Review of Project Carter Issues” which stated:

(a) “No specific requirement to consider significant changes in transaction activity by value or volume and limited details on trigger event review process

Compliance Rating ... Potentially Partially Compliant ... It is recommended that the Bank ensure appropriate trigger event scenarios, including significant changes in transaction activity, have been set out clearly in procedural documentation to ensure all material change in respondent banks has been addressed and updated in the customer profile”;

(b) “Parent-based due diligence may lead to insufficient consideration of jurisdictional risk for relationships with its branches

... It is recommended that the Bank, as part of its CBDD, consider the jurisdiction risk of the member branch of the parent where the Branch may transact with the member”; and

(c) “Enhanced Due diligence is not performed for CB relationships with ... Downstream Correspondent Banking

... It is recommended that the Bank conducts ... checking on Downstream Correspondent Banking Clearing as part of the preliminary due diligence assessment to identify customers with greater risks and determining [sic] the appropriate controls required to address the risk of the customer. ... It is also recommended that the Bank ensures ... downstream correspondents are subject to enhanced due diligence and a higher level of approval”.

**Particulars**

WCA.2000.0014.2166, WCA.2000.0228.5725 and WCA.2000.0228.5728 at .5802 and .5898.

127. By no later than 18 November 2017, Ms Cahill, Ms Peacock and Ms Wood received speaking notes for a presentation relating to “Making Risk Everyone’s Business” that stated, in relation to Westpac’s AML/CTF Program, that:

“The Program has not been independently reviewed for some time. ... The Act does not prescribe how frequently an independent review must be undertaken – however the time period would need to be reasonable”

**Particulars**

WCA.2000.0076.2782; WCA.2000.0076.2795 at .2798; and  
WCA.2000.0076.2784.

128. On around 31 January 2018, a memorandum to the Westpac Group Operational Risk and Financial Crime Committee with the subject “Part A AML/CTF Program” authored by Ms Wood, sponsored by Ms Peacock and sent to Ms Hilton stated that:

“The initial focus has been on Part A of the Program ... until such time as all of the Standards underpinning the Part A program have been reviewed, there remains risk that the Part A Program may not be fully compliant with the requirements of the AML/CTF Act”.

**Particulars**

WCA.3000.0026.1360 at .1360 - .1361; WCA.2000.0065.2406;  
WCA.3000.0026.1360; WCA.2000.0065.2229;  
WCA.3000.0026.1966.

129. On 6 February 2018, Mr Ratnayake informed Mr Jankoski that ‘Citibank inbound volumes to my knowledge are not reported today, it is being remediated per the ACM remediation program’.

**Particulars**

WCA.8902.0009.0214.

130. On 7 February 2018, a Memorandum to RISKCO including Mr Hartzler, Mr King, Ms Holcomb, Ms Cobley, Ms Lim and Mr Kelly reported that:

- (a) "The residual risk rating [for "Breaches of AML/CTF Laws, Regulations & Policy"] remains High due to increased visibility of a range of AML/CTF concerns offshore and a change in the regulatory environment onshore. This context has led to a reassessment of the strength of AML/CTF controls at both the Group and Divisional level and increasing management awareness of a range of issues. There are a number of strategic initiatives to enhance the Group wide control environment which address the majority of the current 83 open issues relating to this risk. The nature of the Group wide issues include improvements in transaction monitoring, enhanced customer due diligence, suspicious matter reporting processes, maintenance of know your customer information, and mandatory training"; and
- (b) Westpac experiencing a "major incident" relating to AML/CTF would have an "Extreme" financial impact in the amount of \$1,604m.

#### **Particulars**

WCA.8007.0060.8320 at .8326 and .8333.

131. On 17 February 2018, Ms Cobley, Ms Holcomb and Ms Wood received a report entitled "AML Get-to-Green Issues – Business Bank" that reported that:

"In this SCB Direct Model when the instructions are sent to Westpac to process payments on behalf of SCB customers to pay beneficiaries, the issue encountered are related to no ... IFTI Reporting. Outcome proposed is to ... get IFTI reported".

#### **Particulars**

WBC.0201.0038.2205; WBC.0201.0038.2212 at 2225.

132. On 1 March 2018, Ms Challenor received a document entitled "GTS Risk Review" that reported that:

"Resolution of IFTI reporting issue related to Citibank and Standard Chartered ACM payments delayed".

### Particulars

WCA.2000.0027.4485; WCA.2000.0027.4487 at .4502.

133. On 29 March 2018, a Memorandum for Risk Acceptance sponsored by Ms Challenor with the subject "Risk Acceptance for Citi Bank non-compliance with IFTI and Sanction Screening for 3rd party payments" stated that:
- (a) "It is recommended that the committee approves the risk of ... possible regulatory fines, penalties, enforcements [sic] due to not subject [sic] to ... International Fund Transfer Instructions (IFTI) reporting as CITI Bank are currently unable to send a structured format report containing remitter & beneficiary details";
  - (b) "Action tracking red as there is no clear path for closure as yet";
  - (c) "We receive very high payment volumes from CITI bank – around 470k per month".

### Particulars

WCA.2004.0007.1389.

134. On 19 April 2018, Ms Holcomb, Ms Peacock, Ms Wood, Ms Challenor, Mr Kelly, Ms Cobby and Mr King received the Group Audit report titled "Westpac Designated Business Group Joint AML/CTF Program Part A (Phase 2) – Audit Report" (referred to in paragraph 58E above) which reported that:
- "As per the Australian AML/CTF regulatory requirements, Westpac is required to maintain an AML/CTF Program and Part A of the AML/CTF program must be independently reviewed regular basis [sic]. Westpac [sic] current AML/CTF program does not clearly define the minimum required frequency to get the independent review performed, as a result Westpac DBG Joint AML/CTF Program Part A was not subject to independent review for several years".

### Particulars

WBC.0201.0008.7044 at .7052, .7054; WBC.0201.0008.7021.

135. On 20 April 2018, a Memorandum for Risk Acceptance sponsored by Ms Challenor with the subject "Risk Acceptance for Citi Bank non-compliance with IFTI and Sanction Screening for 3rd party payments" stated that:
- (a) the issue of "IFTI reporting gaps" for Citibank is "longstanding";
  - (b) Westpac is "unable ... to complete IFTI reporting";
  - (c) "Failure to comply with relevant sanctions laws or AML/CTF regulatory reporting obligations would constitute a breach of legal and/or regulatory requirements which may attract significant regulatory enforcement action, fines, serious reputation [sic] damage and criminal charges in Australia or elsewhere";
  - (d) "CITI Bank has transaction volumes are [sic] in the order of 470,000 per month that are currently not being reported in accordance with AML/CTF & IFTI reporting obligations"; and
  - (e) "Each transaction that is not reported in accordance with IFTI obligations constitute a breach of the AML/CTF legislation and attract significant penalties".

### Particulars

WCA.3001.0370.1393.

136. On 2 May 2018, a Memorandum for Risk Acceptance sponsored by Ms Challenor with the subject "Approval of extension of Juno issue ISS 0054685 – non-compliance with IFTI and Sanction Screening on the Australian Cash Management (ACM) Standard Chartered Bank (SCB) Direct Model 2" stated that:
- (a) The issue of being unable to complete IFTI reporting for the SCB direct model "was first identified approximately 3 years ago and means Westpac continues to be non-compliant with IFTI reporting obligations";

- (b) “SCB direct model has transaction volumes ... in the order of 1000 per month that are currently not being reported in accordance with AML/CTF & IFTI reporting obligations”;
- (c) “Each transaction that is not reported in accordance with IFTI obligations constitute a breach of the AML/CTF legislation and attract significant penalties”.

### **Particulars**

WCA.2004.0007.4233

137. On 2 May 2018, a “Memorandum to Peter King, Chief Financial Officer” with the subject “Project Emerald Get to Green Funding Request” that was sponsored by Ms Challenor and sent to Mr King sought approval of funding for (among other things) “key financial crime regulatory issues” including activities relating to “Regulatory Reporting (IFTI)”, “Risk Assessment” and “Transaction Monitoring” and stated that:

“Without the requested investment the number of existing issues and risks will be heightened and will present WIB and Treasury with ongoing risk and compliance concerns. The limited capability to address immediate and long term key financial crime regulatory obligations, including the large number of long-standing issues related to regulatory reporting (some of which have been outstanding since 2012) and sub-optimal transaction screening and monitoring processes and controls, will continue to contribute to unacceptable levels of risk in terms of potential regulator enforcement actions and fines and as well as reputational damage”.

### **Particulars**

WBC.0201.0008.0473 at .0473, .0474, .0475, .0477, .0479 and .0481.

138. On 14 May 2018, a detection scenario change request form approved by Ms Wood requested that WS 244 “LitePay Low Value Payment (One-to-many)” be decommissioned and replaced with a new detection scenario WS 248 noting that WS 244 was more “general in nature” and the new detection scenario “has a more specific typology ... designed to detect online child exploitation occurring in the Philippines”.

### Particulars

WCA.2000.0073.2011

139. According to a document prepared by Westpac entitled “RELEVANT MATTER: International Funds Transfer Instruction (IFTI) report”:

“[Ms Wood] only became aware of non-reporting [of IFTIs] in late May 2018. From that point, significant and urgent measures were taken to understand the nature and scope of the issue and bring it to AUSTRAC’s attention in an open and transparent way”.

### Particulars

WCA.2001.0014.0562 at 0581.

140. By reason of the matters in paragraphs 69, 75, 85 to 88, 102, 104 to 106, 116 and 126 to 139, by no later than 31 May 2018, it was the case that, in addition to the matters alleged at paragraphs 70, 76, 89, 107 and 117:

- (a) in relation to reports of international funds transfer instructions:
- (i) Westpac was contravening, and had contravened over a significant period, its obligation to report international funds transfer instructions under the AML/CTF Act in respect of Citibank with the number of contraventions being in the amount of around 470,000 per month;
  - (ii) Westpac was contravening, and had contravened over a significant period, its obligation to report international funds transfer instructions under the AML/CTF Act in respect of SCB with the number of contraventions being in the amount of around 1,000 per month;
- (b) in relation to Westpac’s anti-money laundering and counter-terrorism financing program:
- (i) an independent review of Westpac’s Part A Program had not been performed for several years as required by AML/CTF regulatory requirements; and

- (ii) there was a risk that the Part A Program was not fully compliant with the requirements of the AML/CTF Act and that risk would persist until such time as all of the Standards underpinning the Part A Program had been reviewed;
- (c) in relation to due diligence assessments of correspondent banking relationships:
  - (i) Westpac was performing due diligence on the parent entity of correspondent banks leading to the potential for insufficient consideration of jurisdictional risk for relationships with its member branches with the result that Deloitte had recommended to Westpac that, as part of its correspondent banking due diligence, it consider the jurisdictional risk of the member branch of the parent where the branch may transact with the member;
  - (ii) Westpac was not performing enhanced customer due diligence for correspondent banking relationships with downstream correspondent banking with the result that Deloitte had recommended to Westpac that it conduct checking on downstream correspondent banking clearing as part of its preliminary due diligence assessments to identify customers with greater risks and determine the appropriate controls required to assess the risks of the customer and also recommended that Westpac ensure downstream correspondents are subject to enhanced due diligence and a higher level of approval;
  - (iii) Westpac's procedural documentation did not contain a specific requirement for Westpac to consider significant changes in transaction activity by value or volume as a trigger event and details relating to Westpac's trigger event review process were limited with the result that Deloitte assessed Westpac as only "potentially partially compliant" in this area and recommended to Westpac that it ensure that appropriate trigger event scenarios, including significant changes in transaction activity, had been set out clearly in procedural documentation to ensure all material

changes in respondent banks had been addressed and updated in the customer profile.

141. By no later than 31 May 2018, Westpac was contravening, and had contravened over a significant period, its obligation to report international funds transfer instructions under the AML/CTF Act with the number of contraventions being in the amount of over 450,000 per month (the **31 May 2018 IFTI Non-Compliance Information**).

**Particulars**

*The applicant relies upon the matters in subparagraph 140(a).*

142. By no later than 31 May 2018:
- (a) Westpac was contravening, and had contravened over a significant period, its obligation to report international funds transfer instructions under the AML/CTF Act with the number of contraventions being in the amount of over 450,000 per month;
  - (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,
- (the **31 May 2018 IFTI Non-Compliance and Loss Information**).

**Particulars**

*The applicant relies upon the matters in subparagraph 140(a).*

143. By no later than 31 May 2018, Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened, and was continuing to contravene, the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
- (a) due diligence assessments of correspondent banking relationships;
  - (b) ongoing customer due diligence;
  - (c) retention of records about electronic funds transfer instructions; and

- (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program,

**(the 31 May 2018 Systemic Non-Compliance Information).**

**Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107, 117 and 140 above.*

144. By no later than 31 May 2018:

- (a) Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened, and was continuing to contravene, the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
- (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence;
  - (iii) retention of records about electronic funds transfer instructions; and/or
  - (iv) the adoption and maintenance of an anti-money laundering and counter-terrorism financing program, and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

**(the 31 May 2018 Systemic Non-Compliance and Loss Information).**

**Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107, 117 and 140 above.*

145. Alternatively to paragraphs 143 and 144, by no later than 31 May 2018, there was a significant risk that Westpac was in serious and systemic non-compliance with the AML/CTF Act because Westpac had contravened and was continuing to contravene,

and/or had deficiencies in its processes for complying with, the AML/CTF Act with respect to the reporting of international funds transfer instructions and had deficiencies in its processes for complying with the AML/CTF Act in one or more of the following areas:

- (a) due diligence assessments of correspondent banking relationships;
- (b) ongoing customer due diligence;
- (c) retention of records about electronic funds transfer instructions;
- (d) the adoption and maintenance of an anti-money laundering and counter-terrorism financing program.

(the 31 May 2018 Risk of Systemic Non-Compliance Information).

#### **Particulars**

*The applicant relies upon the matters in paragraphs 70, 76, 89, 107, 117 and 140 above.*

146. By no later than 31 May 2018, there was a significant risk that Westpac:

- (a) was in serious and systemic non-compliance with the AML/CTF Act because Westpac had contravened and was continuing to contravene, and/or had deficiencies in its processes for complying with, the AML/CTF Act with respect to the reporting of international funds transfer instructions and had deficiencies in its processes for complying with the AML/CTF Act in one or more of the following areas:
  - (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence;
  - (iii) retention of records about electronic funds transfer instructions; and/or
  - (iv) the adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and

- (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information).

**Particulars**

The applicant relies upon the matters in paragraphs 70, 76, 89, 107, 117 and 140 above.

147. By no later than 31 May 2018, Westpac had failed and/or was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines (the 31 May 2018 Failure to Monitor for Child Exploitation Information).

**Particulars**

The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.

148. By no later than 31 May 2018:
- (a) Westpac had failed and/or was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines and had thereby contravened and/or was contravening its obligation to carry out ongoing customer due diligence under the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information).

**Particulars**

The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.

149. Alternatively to paragraphs 147 and 148, by no later than 31 May 2018, there was a significant risk that Westpac had failed and/or was failing to monitor or adequately

monitor its customers for known indicators of child exploitation in the Philippines (the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information).

**Particulars**

The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.

150. By no later than 31 May 2018, there was a significant risk that Westpac:
- (a) had failed and/or was failing to monitor or adequately monitor its customers for known indicators of child exploitation in the Philippines and had thereby contravened and/or was contravening its obligation to carry out ongoing customer due diligence under the AML/CTF Act; and
  - (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs.

(the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information).

**Particulars**

The applicant relies upon the matters in subparagraphs 89(a) and/or 89(b) above.

151. By around 31 May 2018, Westpac was failing, and had failed approximately 11 million to 16.5 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act (the 31 May 2018 IFTI Reporting Failures Information).

**Particulars**

- (i) The applicant repeats subparagraph (iii) of the particulars to paragraph 63 above.
- (ii) The applicant relies on the matters pleaded in paragraphs 107 and 140(a).

152. By around 31 May 2018:

- (a) Westpac was failing, and had failed approximately 11 million to 16.5 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 31 May 2018 IFTI Reporting Failures and Loss Information).

**Particulars**

- (i) The applicant repeats subparagraph (iii) of the particulars to paragraph 63 above.
- (ii) The applicant relies on the matters pleaded in paragraphs 107 and 140(a).

153. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 IFTI Non-Compliance Information.

**Particulars**

Awareness of the information in paragraph 140(a)

- (i) By reason of the matters pleaded in paragraph 133 and/or 135 and 136, Ms Challenor was in possession of the information pleaded in subparagraph 140(a).
- (ii) Further, Ms Challenor was required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) to bring the information pleaded in paragraph 140(a) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

Awareness of the 31 May 2018 IFTI Non-Compliance Information

(iii) By reason of the matters in subparagraphs (i) and (ii) of these particulars:

(A) Ms Challenor, was in possession of or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of,

the 31 May 2018 IFTI Non-Compliance Information.

(iv) Alternatively to subparagraph (iii) of these particulars, by reason of the matters in subparagraph (i) of these particulars, Ms Challenor, was in possession of, or ought reasonably to have come into possession of, the 31 May 2018 IFTI Non-Compliance Information, and was required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) to bring the information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of the 31 May 2018 IFTI Non-Compliance Information.

154. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 IFTI Non-Compliance and Loss Information.

**Particulars**

Awareness of the information in paragraph 140(a)

(i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 153 above.

Awareness of the 31 May 2018 IFTI Non-Compliance and Loss Information

(ii) By reason of the matters in subparagraph (i) of these particulars:

(A) Ms Challenor, was in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of,

the 31 May 2018 IFTI Non-Compliance and Loss Information.

(iii) Further to subparagraph (ii) of these particulars, by reason of the matters in subparagraph (i) of the particulars to paragraph 153, Ms Challenor was in possession of, or ought reasonably to have come into possession of, the 31 May 2018 IFTI Non-Compliance and Loss Information and was required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of the 31 May 2018 IFTI Non-Compliance and Loss Information.

155. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Systemic Non-Compliance Information.

**Particulars**

Awareness of the information paragraphs 70, 89, 107 and 117

(i) The applicant repeats subparagraphs (ii) and (iii) of the particulars to paragraph 73, subparagraphs (v) to (x) of the

particulars to paragraph 96, subparagraphs (i) to (iv) of the particulars to paragraph 112 and subparagraphs (ii) and (iii) of the particulars to paragraph 122 above.

- (ii) Further to subparagraph (i), by reason of the matters pleaded in paragraph 138, Ms Wood was in possession of the information pleaded in subparagraph 89(a).
- (iii) Further, Ms Wood was required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring the information pleaded in subparagraph 89(a) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.
- (iv) Further to subparagraph (i), by reason of the matters pleaded in paragraph 131, Ms Cobley, Ms Holcomb and Ms Wood were in possession of the information pleaded in subparagraph 107(a).
- (v) Further, Ms Cobley, Ms Holcomb and Ms Wood were required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring the information pleaded in subparagraph 107(a) promptly to the attention of the following officers: Mr Hartzler, Mr King, Mr Lees, Ms Lim and Ms Peacock.
- (vi) Further to subparagraph (i), by reason of the matters pleaded in paragraph 132, Ms Challenor was in possession of the information pleaded in paragraph 107.
- (vii) Further, Ms Challenor was required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring the information pleaded in paragraph 107 promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

- (viii) Further to subparagraph (i), by reason of the matters pleaded in paragraph 139, Ms Wood was in possession of the information pleaded in subparagraphs 107(a) or 107(b).
- (ix) Further, Ms Wood was required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring the information pleaded in subparagraphs 107(a) or 107(b) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

Awareness of the information in subparagraph 140(a)

- (x) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 153 above.

Awareness of the information in subparagraph 140(b)(i)

- (xi) By reason of the matters pleaded in paragraph 127, Ms Cahill, Ms Peacock and Ms Wood were in possession of the information pleaded in subparagraph 140(b)(i).
- (xii) Further, Ms Cahill, Ms Peacock and Ms Wood were required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring the information pleaded in subparagraph 140(b)(i) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.
- (xiii) By reason of the matters pleaded in paragraph 134, Ms Holcomb, Ms Peacock, Ms Wood, Ms Challenor, Mr Kelly, Ms Cobley and Mr King were in possession of the information pleaded in subparagraph 140(b)(i).
- (xiv) Further, Ms Holcomb, Ms Peacock, Ms Wood, Ms Challenor, Mr Kelly, Ms Cobley and Mr King were required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring

the information pleaded in subparagraph 140(b)(i) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

Awareness of the information in subparagraph 140(b)(ii)

- (xv) By reason of the matters pleaded in paragraph 128, Ms Wood, Ms Peacock and Ms Hilton were in possession of the information pleaded in subparagraph 140(b)(ii).
- (xvi) Further, Ms Wood, Ms Peacock and Ms Hilton were required by the Incident Management Procedures & Guidance v 3.2 (which applied at the relevant time) (pleaded at particular (v) to paragraph 7C above, WCA.2000.0071.8707) to bring the information pleaded in subparagraph 140(b)(ii) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

Awareness of the information in subparagraph 140(c)

- (xvii) By reason of some or all of the matters pleaded in paragraph 126, Ms Cobley, Mr Hassiem and Ms Challenor were in possession of the information pleaded in subparagraph 140(c).
- (xviii) Further, Ms Cobley, Mr Hassiem and Ms Challenor were required by the Incident Management Policy v 1.2 (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) (which applied at the relevant time) to bring the information pleaded in subparagraph 140(c) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

Awareness of the 31 May 2018 Systemic Non-Compliance Information

- (xix) By reason of the matters in subparagraphs (i) to (xviii) of these particulars:

(A) Ms Challenor, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler and Mr Lees ought reasonably to have come into possession of,

the 31 May 2018 Systemic Non-Compliance Information.

(xx) Further to subparagraph (xix) of these particulars, by reason of the matters in some or all of subparagraphs (i), (ii), (iv), (viii), (x), (xi), (xiii), (xv) and (xvii) of these particulars, Ms Challenor, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Systemic Non-Compliance Information and were required by the Incident Management Policy v 1.2 (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) (which applied at the relevant time) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of the 31 May 2018 Systemic Non-Compliance Information.

156. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Systemic Non-Compliance and Loss Information.

### **Particulars**

Awareness of the information in paragraphs 70, 89, 107, 117 and 140

(i) The applicant repeats subparagraphs (i) to (xviii) of the particulars to paragraph 155 above.

Awareness of the 31 May 2018 Systemic Non-Compliance and Loss Information

(ii) By reason of some or all of the matters in subparagraph (i) of these particulars:

(A) Ms Challenor, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler and Mr Lees ought reasonably to have come into possession of,

the 31 May 2018 Systemic Non-Compliance and Loss Information.

(iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in some or all of subparagraphs (i), (ii), (iv), (viii), (x), (xi), (xiii), (xv) and (xvii) of the particulars to paragraph 155, Ms Challenor, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Systemic Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.2 (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) (which applied at the relevant time) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of the 31 May 2018 Systemic Non-Compliance and Loss Information.

157. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Risk of Systemic Non-Compliance Information.

## Particulars

Awareness of the information in paragraphs 70, 76, 89, 107, 117 and 140

- (i) The applicant repeats subparagraphs (i) to (xviii) of the particulars to paragraph 155 above.
- (ii) The applicant repeats subparagraph (i) of the particulars to paragraph 81 above.

Awareness of the 31 May 2018 Risk of Systemic Non-Compliance Information

- (iii) By reason of some or all of the matters in subparagraph (i) of these particulars:
  - (A) Ms Challenor, Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of: and
  - (B) Mr Lees ought reasonably to have come into possession of,

the 31 May 2018 Risk of Systemic Non-Compliance Information.

- (iv) Alternatively to subparagraph (iii) of these particulars, by reason of some or all of the matters in subparagraphs (i), (ii), (iv), (viii), (x), (xi), (xiii), (xv) and (xvii) of the particulars to paragraph 155 subparagraph (i) of the particulars to paragraph 81 above, Ms Challenor, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Risk of Systemic Non-Compliance Information and were required by the Incident Management Policy v 1.2 (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) (which applied at the relevant time) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock such that Mr Hartzler, Ms Cobley, Mr

King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of the 31 May 2018 Risk of Systemic Non-Compliance Information.

158. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information.

### **Particulars**

Awareness of the information in paragraphs 70, 76, 89, 107, 117 and 140

- (i) The applicant repeats subparagraphs (i) to (xviii) of the particulars to paragraph 155 above.
- (ii) The applicant repeats subparagraph (i) of the particulars to paragraph 81 above.

Awareness of the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information

- (iii) By reason of some or all of the matters in subparagraphs (i) and(ii) of these particulars:
  - (A) Ms Challenor, Mr Hartzler, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of; and
  - (B) Mr Lees ought reasonably to have come into possession of,

the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information.

- (iv) Alternatively to subparagraph (iii) of these particulars, by reason of some or all of the matters in subparagraphs (i), (ii), (iv), (viii), (x), (xi), (xiii), (xv) and (xvii) of the particulars to paragraph 155 and subparagraph (i) of the particulars to paragraph 81 above, Ms Challenor, Ms Cobley, Mr King Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood were in possession of, or ought reasonably to have come into

possession of, the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.2 (pleaded at particular (viii) to paragraph 7C above, WCA.3001.0380.0161) (which applied at the relevant time) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information.

159. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 IFTI Reporting Failures Information.

#### **Particulars**

##### Awareness of the information in paragraph 107

- (i) The applicant repeats subparagraphs (i) to (iv) of the particulars to 112 and subparagraphs (iv) to (ix) of the particulars to paragraph 155.

##### Awareness of the information in subparagraph 140(a)

- (ii) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 153 above.

##### Awareness of the 31 May 2018 IFTI Reporting Failures Information

- (iii) By reason of the matters in subparagraphs (i) and (ii), Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim, Ms Peacock, Ms Challenor and/or Ms Wood ought to have caused Westpac to investigate the matters in paragraph 107 and/or subparagraph 140(a) and detect and escalate the 31 May 2018 IFTI Reporting Failures Information to each of them.

160. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 IFTI Reporting Failures and Loss Information.

**Particulars**

Awareness of the information in paragraph 107 and subparagraph 140(a)

- (i) The applicant repeats subparagraphs (i) and (ii) of the particulars to paragraph 159.

Awareness of the 31 May 2018 IFTI Reporting Failures and Loss Information

- (ii) By reason of the matters in subparagraph (i) above, Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim, Ms Peacock, Ms Challenor and/or Ms Wood ought to have caused Westpac to investigate the matters in paragraph 107 and/or subparagraph 140(a) and detect and escalate the 31 May 2018 IFTI Reporting Failures and Loss Information to each of them.

161. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Failure to Monitor for Child Exploitation Information.

**Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (v) to (viii) of the particulars to paragraph 96 above.
- (ii) Further to subparagraph (i), by reason of the matters pleaded in paragraph 138, Ms Wood was in possession of the information pleaded in subparagraph 89(b).
- (iii) Further, Ms Wood was required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) to paragraph 7C above,

WCA.3001.0380.0161) to bring the information pleaded in subparagraph 89(b) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock.

Awareness of the 31 May 2018 Failure to Monitor for Child Exploitation Information

- (iv) By reason of the matters in subparagraphs (i) to (iii) of these particulars:
- (A) Ms Pearce, Mr Hassiem, and Ms Wood were in possession of, or ought reasonably to have come into possession of; and
- (B) Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of,

the 31 May 2018 Failure to Monitor for Child Exploitation Information.

- (v) Alternatively to subparagraph (iv) of these particulars, by reason of the matters in some or all of subparagraphs (v) and (vii) of the particulars to paragraph 96 and subparagraph (ii) of these particulars, Mr Hassiem, Ms Pearce and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Failure to Monitor for Child Exploitation Information and were required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) of paragraph 7C above, WCA.3001.0380.0161) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Wood ought reasonably to have come into possession of the 31 May 2018 Failure to Monitor for Child Exploitation Information.

162. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information.

### Particulars

#### Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 161 above.

#### Awareness of the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars:

(A) Ms Pearce, Mr Hassiem and Ms Wood were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Peacock ought reasonably to have come into possession of,

the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in some or all of subparagraphs (v) and (vii) of the particulars to paragraph 96 and subparagraph (ii) of the particulars to paragraph 161, Mr Hassiem, Ms Pearce and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information and were required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) of paragraph 7C above, WCA.3001.0380.0161) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood such that Mr Hartzler, Ms Cobley,

Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Wood ought reasonably to have come into possession of the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information.

163. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information.

### **Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 161 above.

Awareness of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information

- (ii) By reason of the matters in subparagraph (i) of these particulars:

(A) Ms Pearce, Mr Hassiem and Ms Wood were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Mr Lim and Ms Peacock and ought reasonably to have come into possession of,

the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in some or all of subparagraphs (v) and (vii) of the particulars to paragraph 96 and subparagraph (ii) of the particulars to paragraph 161, Mr Hassiem, Ms Pearce and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information and were required by the Incident Management Policy v 1.2 (which applied at the relevant

time) (pleaded at particular (viii) of paragraph 7C above, WCA.3001.0380.0161) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Wood ought reasonably to have come into possession of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information.

164. On and from 31 May 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information.

### **Particulars**

Awareness of the information in subparagraphs 89(a) and/or 89(b)

- (i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 161 above.

Awareness of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars:

(A) Ms Pearce, Mr Hassiem, and Ms Wood were in possession of, or ought reasonably to have come into possession of; and

(B) Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Mr Lim and Ms Peacock ought reasonably to have come into possession of.

the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of the matters in some or all of subparagraphs (v) and (vii) of the particulars to paragraph 96 and subparagraph (ii) of the particulars to paragraph 161, Mr

Hassiem, Ms Pearce and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information and were required by the Incident Management Policy v 1.2 (which applied at the relevant time) (pleaded at particular (viii) of paragraph 7C above, WCA.3001.0380.0161) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim, Ms Peacock and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Holcomb, Ms Lim and Ms Wood ought reasonably to have come into possession of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information.

**C.1.8 As at 15 August 2018**

165. On 25 July 2018, Ms Wood submitted and Ms Challenor supported a briefing note to the members of the Regulatory Disclosure Forum (RDF) including Mr Kelly that:

(a) stated that:

“Matters relating to five foreign banks, each involving a series of breaches over a period of years have arisen by failing to report international funds transfer instructions in the context of the ACM product offered to relevant foreign banks”;

(b) identified the following incidents:

<u>Incident</u>	<u>Failure to report IFTIs arising from third party payments processed on behalf of CitiBank (Citi) INC000063167</u>
<u>Known date of commencement of the ACM arrangement with Citi</u>	<u>June 2009</u>
<u>Estimated number of transactions per month</u>	<u>450,000 per month</u>
<u>Estimated total number of reportable transactions over the period of non-compliance</u>	<u>49,950,000 (9 years, 3 months)</u>

<u>Incident</u>	<u>Failure to report IFTIs arising from third party payments processed on behalf of Bank of Ireland (BOI)</u> <u>INC000063210</u>
<u>Known date of commencement of the ACM arrangement with BOI</u>	<u>November 2010</u>
<u>Estimated number of transactions per month</u>	<u>3,000 per month</u>
<u>Estimated total number of reportable transactions over the period of non-compliance</u>	<u>276,000</u> <u>(7 years, 8 months)</u>

<u>Incident</u>	<u>Failure to report IFTIs arising from third party payments processed on behalf of Standard Chartered Bank (SCB)</u> <u>INC000063213</u>
<u>Known date of commencement of the ACM arrangement with SCB</u>	<u>May 2010</u>
<u>Estimated number of transactions per month</u>	<u>200 per month</u>
<u>Estimated total number of reportable transactions over the period of non-compliance</u>	<u>19,600</u> <u>(8 years, 2 months)</u>

<u>Incident</u>	<u>Failure to report IFTIs arising from third party payments processed on behalf of Bank of New York (BONY)</u> <u>INC000063239</u>
<u>Known date of commencement of the ACM arrangement with BONY</u>	<u>January 2010</u>
<u>Estimated number of transactions per month</u>	<u>3,000 per month</u>
<u>Estimated total number of reportable transactions over the period of non-compliance</u>	<u>264,000</u> <u>(7 years, 4 months)</u>

<u>Incident</u>	<u>Failure to report IFTIs arising from third party payments processed on behalf of Wells Fargo (WF)</u> <u>INC000036885</u>
<u>Known date of commencement of the ACM arrangement with WF</u>	<u>January 2010</u>
<u>Estimated number of transactions per month</u>	<u>15,000 per month</u>
<u>Estimated total number of reportable transactions over the period of non-compliance</u>	<u>1,365,000</u> <u>(7 years, 7 months)</u>

(c) stated that:

“A number of factors, including expectations of Regulators, have been considered in raising these matters to the RDF. It is likely that these issues may be of interest to AUSTRAC as part of its supervisory role. ... There is a risk that AUSTRAC may require retrospective reporting of transactions which were not reported at the time they occurred, and that Westpac would not be in a position to provide this. There is a risk that AUSTRAC may take action against Westpac for non-reporting which has occurred over a number of years”.

#### **Particulars**

WCA.2000.0010.2197 at .2199; WCA.2000.0010.2311;

WCA.1000.0010.1008; WCA.2000.0010.2195; WCA.2000.0066.7144.

166. On 26 July 2018, Mr King received an email forwarding an email chain that stated:

- (a) “Failure to report IFTIs arising from third party payments processed on behalf of Bank of New York (BONY) ... Known date of commencement of the ACM arrangement with BONY January 2010 ... Estimated number of transactions per month 3,000 ... Estimated total number of reportable transactions over the period of non-compliance 264,000 (7 years, 4 months)”;
- (b) “Failure to report IFTIs arising from third party payments processed on behalf of Wells Fargo (WF) ... Known date of commencement of the ACM arrangement with WF January 2010 ... Estimated number of transactions per

month 15,000 ... Estimated total number of reportable transactions over the period of non-compliance 1,365,000 ... (7 years, 7 months)”; and

- (c) “Confirmation on whether payments for BONY (May 2018 implementation) and Wells (2017 Implementation) are now being IFTI reported.

Answer: Confirmed. From the respective remediation dates, Westpac has reported payments as IFTIs. ... Wells Fargo was implemented in July 2017 Bank of NY was implemented in May 2018 ... Standard Chartered and Bank of Ireland are expected to implement the expanded file by end of July 2018 ... Citi bank is expected to implement the new file expansion by end of September 2018”.

#### **Particulars**

WCA.2000.0134.6356.

167. On 1 August 2018, at a meeting of the Board Risk and Compliance Committee attended by Mr Hartzler, Ms Cobley, Mr King, Mr Crouch, Mr Maxsted, Ms Caesar, Ms Deans, Mr Dunn, Mr Hawkins, Mr Marriott and Mr Nash:

“Lyn Cobley provided an update on emerging risks and key risk issues in the Institutional Bank. ... Lyn discussed ... a recently identified IFTI issue, relating to failure to report transactions in the Australian [sic] Cash Management Account where the Westpac Institutional Bank has acted as intermediary for other global financial institutions to process predominantly low value, high volume transactions... It was noted that the issue involves a significant number of payments over a 9 year period ...

The Committee discussed the IFTI transactions issue and noted management’s intention to voluntarily disclose the IFTI transactions breach to AUSTRAC as soon as reasonably practicable once further clarity is obtained regarding the number and value of the IFTI transactions and, accordingly, the extent of the issue”.

#### **Particulars**

WBD.012.001.7321 at .7335 to .7336

168. On around 1 August 2018, Mr Hartzler knew that:
- (a) for each individual breach of the obligation to report international funds transfer instructions the sanction was in the sum of millions of dollars; and
  - (b) having regard to the number of breaches by Westpac, the potential sanction could run into the “hundreds of trillions of dollars”.

**Particulars**

Examination of Mr Hartzler under s 19 of the ASIC Act 2001 (Cth) on 11 August 2020 at WPC.0005.0019.0001 at T.128 to T.131 and T.134 to T.135:

“Q. What I want to ask you is that it’s 1 August when this meeting occurs, and what the BRCC’s asking is for a report to come back in November 2018, three months’ time. Do you agree with that? ...

Q. Well, you knew, did you not, that for each individual breach, the sanction provided as in the sum of a million, of millions of dollars?

A. Privilege. Yes, I, I did. I don’t know exactly when I knew that but, yes, somewhere around that time I knew that.

Q. And if there’s 450,000 transactions per month with Citibank that are not to be remedied until September 2018, that could run, just on its own, on a purely arithmetical calculation, not the course-of-conduct-style calculation, but arithmetical calculation, could run into the hundreds of millions, if not billion, over a billion dollars.

A. Privilege. Yes. I think actually the number you could calculate is in the hundreds of trillions of dollars.

169. On 15 August 2018, Ms Wood sent a letter to the AUSTRAC CEO that stated that:

“...we have also identified a set of 5 “payable on behalf of” arrangements where AUD payments are facilitated by Westpac on behalf of certain correspondent banking customers and where we now believe IFTI reports should have, but have not, been submitted. ...

These arrangements have been in place with certain correspondent banking customers since 2009 and 2010...

The volume of payments facilitated through these arrangements has increased since they were established in 2009/2010. The average volume of payments over the 9 years that the arrangements have been in place is approximately 3.1 million per annum. However, over the past year we estimate that approximately 5.8 million payments have been facilitated under the arrangements. We now believe that a large proportion of those payments are likely to have given rise to an IFTI reporting obligation. ...

Westpac has now commenced reporting IFTIs in respect of three of the arrangements. IFTIs will be reported in relation to the remaining two arrangements by the end of September 2018."

**Particulars**

WCA.2000.0302.0530; and WCA.2000.0302.0531.

170. By no later than 15 August 2018, Westpac had contravened its obligation to report international funds transfer instructions under the AML/CTF Act millions of times over a period of 9 years (the **15 August 2018 IFTI Non-Compliance Information**).

**Particulars**

The applicant relies upon the matters in paragraphs 165 to 169.

171. By no later than 15 August 2018:
- (a) Westpac had contravened its obligation to report international funds transfer instructions under the AML/CTF Act millions of times over a period of 9 years; and
  - (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,
- (the **15 August 2018 IFTI Non-Compliance and Loss Information**).

### Particulars

The applicant relies upon the matters in paragraphs 165 to 169.

172. By around 2018, Westpac was failing, and had failed approximately 11.4 million to 17.1 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act (the 15 August 2018 IFTI Reporting Failures Information).

### Particulars

- (i) The applicant repeats subparagraph (iii) the particulars to paragraph 63 above.
- (ii) The applicant relies upon the matters pleaded in paragraph 170.

173. By around 15 August 2018:

- (a) Westpac was failing, and had failed approximately 11.4 to 17.1 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act; and
- (b) There was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 15 August 2018 IFTI Reporting Failures and Loss Information).

### Particulars

- (i) The applicant repeats subparagraph (iii) the particulars to paragraph 63 above.
- (ii) The applicant relies upon the matters pleaded in paragraph 170.

174. On and from 15 August 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 August 2018 IFTI Non-Compliance Information.

## Particulars

### Awareness of the information in paragraph 170

- (i) By reason of the matters in paragraph 165, Ms Wood, Ms Challenor and Mr Kelly were in possession of the information pleaded in paragraph 170.
- (ii) Further, Ms Wood, Ms Challenor and Mr Kelly were required by the Incident Management Policy v 1.3 or 1.4 (which applied at the relevant time) (pleaded at particulars (ix) and (x) to paragraph 7C above, WCA.3001.0380.0133 and WCA.0380.0147) to bring the information pleaded in paragraph 170 promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim and Ms Wood.
- (iii) By reason of the matters in paragraph 166, Mr King was in possession of the information pleaded in paragraph 170.
- (iv) Further, Mr King was required by the Incident Management Policy v 1.3 or 1.4 (which applied at the relevant time) (pleaded at particulars (ix) and (x) to paragraph 7C above, WCA.3001.0380.0133 and WCA.0380.0147) to bring the information pleaded in paragraph 170 promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr Lees, Ms Lim and Ms Wood.
- (v) By reason of the matters in paragraph 167, Mr Hartzler, Mr Maxsted, Mr King and Ms Cobley were in possession of the information pleaded in paragraph 170.
- (vi) By reason of the matters in paragraph 168, Mr Hartzler was in possession of the information pleaded in paragraph 170.
- (vii) By reason of the matters in paragraph 169, Ms Wood was in possession of the information pleaded in paragraph 170.
- (viii) Further, Ms Wood was required by the Incident Management Policy v 1.3 or 1.4 (which applied at the relevant time) (pleaded at particulars (ix) and (x) to paragraph 7C above, WCA.3001.0380.0133 and WCA.0380.0147) to bring the information pleaded in

paragraph 170 promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim and Ms Wood.

Awareness of the 15 August 2018 IFTI Non-Compliance Information

(ix) By reason of the matters in subparagraphs (i) to (viii) of these particulars:

(A) Ms Wood, Ms Challenor, Mr Kelly, Mr Hartzler, Ms Cobley, Mr King, and Mr Maxsted were in possession of, or ought reasonably to have come into possession of; and

(B) Ms Lim and Mr Lees ought reasonably to have come into possession of,

the 15 August 2018 IFTI Non-Compliance Information.

(x) Further to subparagraph (ix) of these particulars, by reason of the matters in subparagraphs (i) and (vii) of these particulars, Ms Wood, Ms Challenor, Mr Kelly Ms Cobley and Mr King were in possession of, or ought reasonably to have come into possession of, the 15 August 2018 IFTI Non-Compliance Information and were required by the Incident Management Policy v 1.3 or 1.4 (which applied at the relevant time) (pleaded at particulars (ix) and (x) to paragraph 7C above, WCA.3001.0380.0133 and WCA.0380.0147) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim and Ms Wood ought reasonably to have come into possession of the 15 August 2018 IFTI Non-Compliance Information.

175. On and from 15 August 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 August 2018 IFTI Non-Compliance and Loss Information.

## Particulars

### Awareness of the information in paragraph 170

- (i) The applicant repeats subparagraphs (i) to (viii) of the particulars to paragraph 174 above.

### Awareness of the 15 August 2018 IFTI Non-Compliance and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars:

(A) Ms Wood, Ms Challenor, Mr Kelly, Mr Hartzler, Mr King, and Mr Maxsted were in possession of; and

(B) Ms Wood, Mr Hartzler, Ms Cobley, Mr King, Ms Lim and Mr Lees ought reasonably to have come into possession of,

the 15 August 2018 IFTI Non-Compliance and Loss Information.

- (iii) Further to subparagraph (ii) of these particulars, by reason of the matters in subparagraphs (i) and (vii) of the particulars to paragraph 174, Ms Wood, Ms Challenor, Mr Kelly Ms Cobley and Mr King were in possession of, or ought reasonably to have come into possession of, the 15 August 2018 IFTI Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.3 or 1.4 (which applied at the relevant time) (pleaded at particulars (ix) and (x) to paragraph 7C above, WCA.3001.0380.0133 and WCA.0380.0147) to bring that information promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim, and Ms Wood such that Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim and Ms Wood ought reasonably to have come into possession of the 15 August 2018 IFTI Non-Compliance and Loss Information.

176. On and from 15 August 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 August 2018 IFTI Reporting Failures Information.

**Particulars**

Awareness of the information in paragraph 170

- (i) The applicant repeats subparagraphs (i) to (viii) of the particulars to paragraph 174 above.

Awareness of the 15 August 2018 IFTI Reporting Failures Information

- (ii) By reason of the matters in subparagraph (i), Ms Wood, Ms Challenor, Mr Kelly, Mr Hartzler, Ms Cobley, Mr King, Ms Lim, Ms Peacock, Ms Wood and Mr Maxsted ought to have caused Westpac to investigate the matters in paragraph 170 and detect and escalate the 15 August 2018 IFTI Reporting Failures Information to each of them.

177. On and from 15 August 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 15 August 2018 IFTI Reporting Failures and Loss Information.

**Particulars**

Awareness of the information in paragraph 170

- (i) The applicant repeats subparagraphs (i) to (viii) of the particulars to paragraph 174 above.

Awareness of the 15 August 2018 IFTI Reporting Failures and Loss Information

- (ii) By reason of the matters in subparagraph (i), Ms Challenor, Mr Kelly, Mr Hartzler, Ms Cobley, Mr King, Mr Lees, Ms Lim, Ms Wood and Mr Maxsted ought to have caused Westpac to investigate the matters in paragraph 170 and detect and escalate the 15 August 2018 IFTI Reporting Failures and Loss Information to each of them.

### **C.1.9 As at 28 November 2018**

178. On 24 August 2018, Ms Wood sent to Mr King and, on 3 September 2018, forwarded to Ms Challenor, an email that stated that:

“... it appears that we have gaps in our backup tapes for records relating to the transactions from our correspondent banks which are the subject of the conversations we are having with AUSTRAC in relation to IFTIs.

There is a requirement to retain records for a period for 7 years under the AML/CTF Act. It looks like we have two periods where tapes cannot be found which may equate in total to around a two year gap in our records (timeframes are currently being confirmed).

Failure to comply record keeping requirements is a breach of the AML/CTF Act.”

#### **Particulars**

WCA.2010.0010.6745.

179. On 18 September 2018, an image extracted from a Risk Analysis document (the author and intended audience of which are presently unknown to the applicant) stated that with respect to the risk of “Breaches of AML/CTF Laws, Regulations and Policy and inadequate management of ML/TF Risk”:

- (a) “Inherent Likelihood: Almost Certain (> 85% - 100%)”;
- (b) “Inherent Regulatory Impact: Major”; and
- (c) “Inherent Risk Justification: Inherent risk rating is recommended to be re-adjusted from WIB alignment session last year from High to Very High Risk ... Without any controls, it is considered that the likelihood of sustained regulatory scrutiny or significant fines is almost certain. This has changed over the past 2 years with APRA (sic) releasing fines of \$40m to TabCorp and \$700m settlement to CBA”.

## Particulars

*(i) WCA.2000.0079.4657;*

*(ii) Further particulars may be provided after further discovery.*

180. By 19 September 2018, Mr Hartzler, Ms Challenor, Mr King, Ms Cobley, Ms Lim, Mr Kelly and Ms Wood received a document titled “Westpac Operational Risk & Compliance 2nd Line Assurance Report relating to AML/CTF Correspondent Banking Review” that identified the following issues:

- (a) “The control design supporting the monthly correspondent banking relationship reconciliation and associated exception management is inadequate. This has resulted in a number of correspondent banking due diligence gaps not being detected and actioned”;
- (b) “The control supporting the Vostro and Relationship Management Applications (RMA) offboarding including the procedure to manage declined relationship process is manual and not designed adequately to ensure all relationships under a correspondent banking group are offboarded on [sic] a timely manner”;
- (c) “The Factiva trigger event monitoring process requires enhancement to ensure the completeness of correspondent bank list and defined monitoring scope set up in Factiva, sufficient quality assurance control and proper record retention”;
- (d) “There is a lack of independent quality assurance (QA) review over the correspondent banking due diligence work due to unclear defined QA roles and responsibilities between relevant parties involved. In addition, the RFO due diligence team’s internal secondary review was not always operating effectively to identify the omitted or not-evidenced due diligence steps”; and
- (e) “The current correspondent banking standard does not take to account [sic] the various jurisdictional regulatory requirements. In addition, the bi-annual review of the group standard has been overdue since December 2016”.

**Particulars**

WBC.0201.0030.6876; WBC.0201.0023.6994; and  
WBC.0201.0030.6878.

181. On 27 September 2018, the Board including Mr Maxsted, Mr Hartzler, Mr Marriott, Ms Caesar, Ms Deans, Mr Dunn, Mr Hawkins and Mr Nash were informed by Mr King that, according to Mr King's speaking notes:

"In early 2014 WIBS the application where the structured files supporting the IFTI reporting process are stored was moved from local backup recovery system in Melbourne to Group Enterprise Backup system. During this process it would appear that the incorrect retention setting was put in place (12 months vs 7 years). ... As part of a review in 2016 this was identified ... Technology are reviewing to understand what drove this review or change (or what escalation occurred at this point)".

**Particulars**

WCA.2001.0095.2704; WCA.2001.0095.2705 at .2711;  
WCA.2001.0068.0869 at .0872.

182. By 2 October 2018, a Memorandum to the Westpac Group Operational Risk and Financial Crime Committee authored by Ms Wood was sent to Mr Stephen that stated that:

"Record retention investigation - As a result of data requests required for ACM IFTI validation and remediation activities, Group Technology discovered that not all WIBS requested files could be recovered and a number of gaps were identified across multiple time periods dating back to 2009. As a result, a second situation management group has been established to determine the extent of the issue, including whether it extends to other WIB and Treasury servers, whether secondary data may be available and if the current data retention policies are consistent with regulatory record keeping requirements".

**Particulars**

WCA.2000.0053.5613 at .5614; WCA.2000.0053.5612;  
WCA.2000.0053.5613.

183. On 9 October 2018, a Memorandum to the Westpac Group Executive Risk Committee sponsored by Mr King stated that:

“there is likely to be further issues given the current state of financial crime management at Westpac. All of this tells us that financial crime management at Westpac is inadequate and we cannot continue on the current, largely reactive approach, without risking significant regulatory penalties, reputational damage, personal liability and other consequences”.

**Particulars**

WCA.2000.0053.4468 at .4469.

184. On 24 October 2018, Ms Wood, Ms Challenor and Mr Kelly received an email that attached a screenshot of a JUNO entry that stated:

“The record retention settings for WIBS server (which included payment file information amongst others) was set at 12 months (rather than 7 yrs). This may not have been in compliance with the relevant record retention policies in place at the time. Alternative sources of the data have been explored and no further data is available”.

**Particulars**

WCA.2000.0004.5176; WCA.2000.0004.5179.

185. On 24 October 2018, a Memorandum to the Board authored by Ms Wood and Mr Kelly, sponsored by Mr Stephen and sent to Mr Hartzler, Mr Maxsted, Mr Kelly, Ms Challenor and Ms Lim:

(a) stated “It is recommended that the Board note the update on matters which may be discussed during the lunch with the AUSTRAC CEO ... The IFTI reporting issue is the most significant of these and relates to the non-reporting of approximately 26.6 million IFTIs between 1 September 2011 and 31 July 2018”;  
and

- (b) attached a document titled “AUSTRAC’s Approach to Regulation” which addresses “How AUSTRAC selects matters for enforcement” and “Enforcement actions available to AUSTRAC”.

### Particulars

WBC.0201.0054.1755; WCA.2001.0040.5931; WCA.2001.0040.6009;  
WCA.2000.0004.5304; WCA.2000.0004.5306.

186. On 24 October 2018, the Board including Mr Hartzler and Mr Maxsted received, Ms Wood sent by email to Mr Kelly and Mr Kelly sent by email to Ms Challenor, a document titled “International Funds Transfer Instruction (IFTI) Reporting Issue” that stated:

- (a) “Between 1 September 2011 and 31 July 2018 (the period for which we have records):
- 26,556,192 IFTIs should have been reported to AUSTRAC in relation to the Citi arrangement.
  - 43,831 IFTIs should have been reported to AUSTRAC in relation to the SCB arrangement”;
- (b) “AUSTRAC have stated they consider this to be a “significant matter” given the number of unreported transactions, and that if the IFTIs had of [sic] been reported the number of transactions reported by Westpac over the period would have been double”;
- (c) “AUSTRAC has expressed interest in being kept apprised of any market disclosure by Westpac on the matter”; and
- (d) “Each failure to file an individual IFTI may be considered a breach of the AML/CTF Act. AUSTRAC has two key enforcement options:
- to commence civil penalty proceedings (the maximum penalty per breach depends on when the breach occurred (\$11m to \$21m per breach). The ‘Course of conduct’ and ‘totality’ principles may operate

such that each IFTI is not treated as a single breach if the non-compliance arose from the same source; or

- issue an infringement notice (must be issued within 12 months of the breach with a penalty of \$12,600 per breach. However, AUSTRAC is not required apply [sic] an infringement to every breach”.

**Particulars**

WCA.2000.0300.8397; WCA.2000.0300.8398; WCA.2000.0054.2425; WCA.2000.0054.2426; WCA.2000.0045.5864; WCA.2000.0045.5865.

187. On 31 October 2018, Ms Wood sent to Ms Cobley, Mr Stephen, Ms Challenor and Mr Kelly, and Ms Cobley forwarded to Ms Lim and Mr King a document titled “Talking points for AUSTRAC meeting on IFTIS” that stated:

“due to a move in one of our data centres from Melbourne to Sydney, we have lost some data relating to the transactions for the ACM Direct model. As part of this move, data retention requirements may not have been properly considered”.

**Particulars**

WBC.0201.0031.0254; WBC.0201.0031.0256; WCA.2000.0054.2428; WCA.2000.0054.2435; WBC.0201.0031.0262.

188. On 5 November 2018, Ms Wood sent a letter to AUSTRAC that stated in relation to “Standard Chartered Bank (SCB) Outwards Payments” that:

“... because the payments appear to be domestic payments, Westpac does not receive “complete payer” information from the Australian Payer’s bank. In addition, because Westpac does not maintain the sub-accounts, it has no knowledge of the payee”.

**Particulars**

WCA.2000.0070.7045 at .7046.

189. On around 28 November 2018, a Memorandum to the Westpac Group Executive Risk Committee sent to Mr Hartzler, Mr King, Mr Stephen, Ms Cobley, Mr Kelly and Ms Lim that was authored by Ms Wood and Mr Kelly and sponsored by Mr Stephen with the subject "International Funds Transfer Instruction (IFTI) Reporting":

(a) stated:

"To date we have had no indication from AUSTRAC as to what action, if any, they intend to take in relation to this matter. However, the recently reviewed section 167 notice may provide an indication of a change in approach";

(b) included an attachment entitled "Summary of IFTI issues discussed with AUSTRAC" which stated:

(i) "From 1 September 2011 (the period from which we have records):

- To 3 September 2017 27,056,197 IFTIs should have been reported to AUSTRAC in relation to inwards payments under the Citi arrangement.
- To 12 August 2017 43,959 IFTIs should have been reported to AUSTRAC in relation to inwards payments under the SCB arrangement";

(ii) "The failure to report has been compounded by a failure to retain certain data file records relating to the ACM Direct transactions. There is a requirement to retain records for seven years under Australia's AML laws. This issue arose because, at the time of a data migration exercise in 2014, data retention requirements appear not to have been properly considered. This resulted in back-ups taken from that time being configured to automatically expire after a period of 12 months";

(iii) "AUSTRAC expressed interest in being kept apprised of any market disclosure by Westpac on the matter";

- (iv) “AUSTRAC have stated that they consider this to be a “significant matter” given the number of unreported transactions, and that if the IFTIs had been reported, the number of transactions reported by Westpac over the period would have been double that which it in fact reported to AUSTRAC”;
- (v) “Each failure to file an individual IFTI is a breach of the AML/CTF Act. AUSTRAC has two key enforcement options:
- to commence civil penalty proceedings. The maximum penalty per breach depends on when the breach occurred (\$11,000,000 to \$21,000,000 per breach). The ‘course of conduct’ and ‘totality’ principles may operate such that for the purpose of determining an appropriate penalty, each IFTI is not treated as a separate breach if the non-compliance arose from the same source; or
  - to issue an infringement notice. An infringement notice must be issued within 12 months of the breach with a penalty of \$12,600 applied per breach which is the subject of the notice. However, AUSTRAC would not be required to include every instance of a breach within the notice”.

### **Particulars**

WCA.3000.0026.5292 at .5295 to .5298; WCA.3000.0026.5807.

190. By reason of the matters in paragraphs 69, 85 to 88, 102, 104 to 106, 116, 126 to 139, 165 to 169 and 178 to 190, by no later than 28 November 2018, it was the case that, in addition to the matters alleged at paragraphs 70, 89, 107, 117, 140 and 170:
- (a) Westpac had contravened its obligation to report international funds transfer instructions under the AML/CTF Act approximately 26.6 million times between September 2011 and July 2018;
- (b) with respect to retention of records about electronic funds transfer instructions:

- (i) Westpac had gaps in its backup tapes for a period of around two years resulting in Westpac failing to comply with its obligation under the AML/CTF Act to retain records for 7 years;
  - (ii) Westpac had data gaps across multiple time periods dating back to 2009;
  - (iii) Westpac's record retention settings for its WBS server (which included payment file information) was set at 12 months instead than 7 years;
  - (iv) Westpac lost some data relating to transactions for the ACM Direct Model due to a move in one of its data centres from Melbourne to Sydney;
- (c) with respect to due diligence assessments of correspondent banking relationships:
- (i) the control design supporting the monthly correspondent banking relationship reconciliation and associated exception management was inadequate resulted in a number of correspondent banking due diligence gaps not being detected and actioned;
  - (ii) the control supporting the Vostro and Relationship Management Applications offboarding including the procedure to manage declined relationship process is manual and not designed adequately to ensure all relationships under a correspondent banking group are offboarded in a timely manner;
  - (iii) the Factiva trigger event monitoring process requires enhancement to ensure the completeness of correspondent bank list and defined monitoring scope set up in Factiva, sufficient quality assurance control and proper record retention;
  - (iv) there is a lack of independent quality assurance review over the correspondent banking due diligence work due to unclear defined quality assurance roles and responsibilities between relevant parties involved and the RFO due diligence team's internal secondary review was not

always operating effectively to identify the omitted or not-evidenced due diligence steps; and

(v) the current correspondent banking standard did not take to account various jurisdictional regulatory requirements and the bi-annual review of the group standard has been overdue since December 2016;

(d) with respect to outwards payments with a particular correspondent bank, Westpac was not receiving complete payer information from the Australian payer's bank and did not have any knowledge of the payee.

191. By no later than 28 November 2018, Westpac had contravened its obligation to report international funds transfer instructions under the AML/CTF Act approximately 26.6 million times between September 2011 and July 2018 (the **28 November 2018 IFTI Non-Compliance Information**).

#### **Particulars**

*The applicant relies upon the matters in subparagraph 190(a).*

192. By no later than 28 November 2018:

(a) Westpac had contravened its obligation to report international funds transfer instructions under the AML/CTF Act approximately 26.6 million times between September 2011 and July 2018; and

(b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs.

**(28 November 2018 IFTI Non-Compliance and Loss Information).**

#### **Particulars**

*The applicant relies upon the matters in subparagraph 190(a).*

193. By no later than 28 November 2018, Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened the AML/CTF Act with

respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (a) due diligence assessments of correspondent banking relationships;
- (b) ongoing customer due diligence
- (c) retention of records about electronic funds transfer instructions;
- (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program;
- (e) transfer information for electronic funds transfer instructions,

(the 28 November 2018 Systemic Non-Compliance Information).

#### **Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170 and 190.*

194. By no later than 28 November 2018:

- (a) Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
  - (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence;
  - (iii) retention of records about electronic funds transfer instructions;
  - (iv) adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and/or
  - (v) transfer information for electronic funds transfer instructions; and

- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 28 November 2018 Systemic Non-Compliance and Loss Information).

**Particulars**

The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170 and 190.

195. Alternatively to paragraphs 193 and 194, by no later than 28 November 2018, there was a significant risk that Westpac was in serious and systemic non-compliance with the AML/CTF Act because Westpac had contravened or had deficiencies in its processes for complying with the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (a) due diligence assessments of correspondent banking relationships;
- (b) ongoing customer due diligence;
- (c) retention of records about electronic funds transfer instructions;
- (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program;
- (e) transfer information for electronic funds transfer instructions,

(the 28 November 2018 Risk of Systemic Non-Compliance Information).

**Particulars**

The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170 and 190.

196. By no later than 28 November 2018, there was a significant risk that Westpac:
- (a) was in serious and systemic non-compliance with the AML/CTF Act because Westpac had contravened, or had deficiencies in its processes for complying

with the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence;
  - (iii) retention of records about electronic funds transfer instructions;
  - (iv) adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and/or
  - (v) transfer information for electronic funds transfer instructions; and
- (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information).

#### **Particulars**

The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170 and 190.

197. By around 28 November 2018, Westpac was failing, and had failed approximately 12.1 million to 19.5 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act (the 28 November 2018 IFTI Reporting Failures Information).

#### **Particulars**

- (i) The applicant repeats subparagraph (iii) the particulars to paragraph 63 above.
- (ii) The applicant relies upon the matters pleaded in paragraphs 170 and 190(a) above.

198. By around 28 November 2018:

- (a) Westpac was failing, and had failed approximately 12.1 million to 19.5 million times, to comply with its international funds transfer instruction reporting obligations under the AML/CTF Act and thereby contravened and was contravening the AML/CTF Act; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 28 November 2018 IFTI Reporting Failures and Loss Information).

#### Particulars

- (i) The applicant repeats subparagraph (iii) the particulars to paragraph 63 above.
- (ii) The applicant relies upon the matters pleaded in paragraphs 170 and 190(a) above.

199. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 28 November 2018 IFTI Non-Compliance Information.

#### Particulars

##### Awareness of the information in subparagraph 190(a)

- (i) By reason of the matters pleaded in paragraph 185, Mr Hartzer, Mr Maxsted, Mr Kelly, Mr Stephen, Ms Challenor, Ms Lim and Ms Wood were in possession of the information pleaded in subparagraph 190(a).
- (ii) By reason of the matters pleaded in paragraph 186, Mr Hartzer, Mr Maxsted, Mr Kelly, Ms Challenor and Ms Wood were in possession of the information pleaded in subparagraph 190(a).
- (iii) By reason of the matters pleaded in paragraph 189, Mr Hartzer, Mr King, Mr Stephen, Ms Cobley, Mr Kelly and Ms

Lim were in possession of the information pleaded in subparagraph 190(a).

Awareness of the 28 November 2018 IFTI Non-Compliance Information

(iv) By reason of the matters in subparagraphs (i) to (iii) of these particulars, Mr Hartzler, Mr Maxsted, Mr King, Mr Kelly, Mr Stephen, Ms Cobley, Ms Challenor, Ms Lim and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 IFTI Non-Compliance Information.

200. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 28 November 2018 IFTI Non-Compliance and Loss Information.

**Particulars**

Awareness of the information in subparagraph 190(a)

(i) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 199 above.

Awareness of the 28 November 2018 IFTI Non-Compliance and Loss Information

(ii) By reason of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr Maxsted, Mr King, Mr Kelly, Mr Stephen, Ms Cobley, Ms Challenor, Ms Lim and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 IFTI Non-Compliance and Loss Information.

201. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 28 November 2018 Systemic Non-Compliance Information.

## Particulars

Awareness of the information in paragraphs 70, 89, 107, 117, 140, and 170

- (i) The applicant repeats subparagraphs (i) to (xviii) of the particulars to paragraph 155 above and subparagraphs (i) to (vii) of the particulars to paragraph 174 above.

Awareness of the information in subparagraph 190(a)

- (ii) The applicant repeats subparagraphs (i) to (iii) of the particulars to paragraph 199 above.

Awareness of the information in subparagraph 190(b)(i)

- (iii) By reason of the matters pleaded in paragraph 178, Ms Wood, Mr King and Ms Challenor were in possession of the information pleaded in subparagraph 190(b)(i)
- (iv) Further, Ms Wood, Mr King and Ms Challenor were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring the information pleaded in paragraph 190(b)(i) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr Stephen, Ms Lim, Mr King and Ms Wood.

Awareness of the information in subparagraph 190(b)(ii)

- (v) By reason of the matters pleaded in paragraph 182, Ms Wood and Ms Stephen were in possession of the information pleaded in subparagraph 190(b)(ii).
- (vi) Further, Ms Wood and Ms Stephen were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring the information pleaded in subparagraph 190(b)(ii) promptly to the attention of the

following officers: Mr Hartzler, Ms Cobley, Mr Stephen, Ms Lim, Mr King and Ms Wood.

Awareness of the information in subparagraph 190(b)(iii)

- (vii) By reason of the matters pleaded in paragraph 181, Mr Hartzler, Mr Maxsted and Mr King were in possession of the information pleaded in subparagraph 190(b)(iii).
- (viii) By reason of the matters pleaded in paragraph 184 Ms Wood, Ms Challenor and Mr Kelly were in possession of the information pleaded in subparagraph 190(b)(iii).
- (ix) Further, Ms Wood, Ms Challenor and Mr Kelly were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring the information pleaded in subparagraph 190(b)(iii) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr Stephen, Ms Lim, Mr King and Ms Wood.
- (x) By reason of the matters pleaded in paragraph 189, Mr Hartzler, Mr King, Mr Stephen, Ms Cobley, Mr Kelly, Ms Lim and Ms Wood were in possession of the information pleaded in subparagraph 190(b)(iii).

Awareness of the information in subparagraph 190(b)(iv)

- (xi) By reason of the matters pleaded in paragraph 189, Mr Hartzler, Mr King, Ms Cobley, Mr Stephen, Mr Kelly, Ms Lim and Ms Wood were in possession of the information pleaded in subparagraph 190(b)(iv).

Awareness of the information in subparagraph 190(c)

- (xii) By reason of the matters pleaded in paragraph 180, Mr Hartzler, Ms Challenor, Mr King, Ms Cobley, Ms Lim, Mr Kelly and Ms Wood were in possession of the information pleaded in subparagraph 190(c).

Awareness of the information in subparagraph 190(d)

- (xiii) By reason of the matters pleaded in paragraph 188, Ms Wood was in possession of the information pleaded in subparagraph 190(d)
- (xiv) Further, Ms Wood was required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring the information pleaded in subparagraph 190(d) promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr Stephen, Ms Lim and Ms Wood.

Awareness of the 28 November 2018 Systemic Non-Compliance Information

- (xv) By reason of some or all of the matters in subparagraphs (i) to (xiv) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Systemic Non-Compliance Information.
- (xvi) Further to subparagraph (xv) of these particulars, by reason of some or all of the matters in subparagraphs (i), (iii), (v), (vii), (viii), and (x) to (xiii) of these particulars Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kely, Mr Stephen and Ms Wood, were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Systemic Non-Compliance Information and were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood ought reasonably to have come into possession of the 28 November 2018 Systemic Non-Compliance Information.

202. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 28 November 2018 Systemic Non-Compliance and Loss Information.

### Particulars

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170 and 190

- (i) The applicant repeats subparagraphs (i) to (xiv) of the particulars to paragraph 201.

Awareness of the 28 November 2018 Systemic Non-Compliance and Loss Information

- (ii) By reason of some or all of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Systemic Non-Compliance and Loss Information.
- (iii) Further to subparagraph (ii) of these particulars, by reason of some or all of the matters in subparagraphs (i), (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Systemic Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) ) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King, and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood ought reasonably to have come into possession of the 28 November 2018 Systemic Non-Compliance and Loss Information.

203. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 28 November 2018 Risk of Systemic Non-Compliance Information.

### Particulars

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170 and 190

- (i) The applicant repeats subparagraphs (i) to (xiv) of the particulars to paragraph 201.

Awareness of the 28 November 2018 Risk of Systemic Non-Compliance Information

- (ii) By reason of some or all of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Risk of Systemic Non-Compliance Information.
- (iii) Further to subparagraph (ii) of these particulars, by reason of some or all of the matters in subparagraphs subparagraphs (i) to (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Risk of Systemic Non-Compliance Information and were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood ought reasonably to have come into possession of the 28 November 2018 Risk of Systemic Non-Compliance Information.

204. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information.

### Particulars

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170 and 190

- (i) The applicant repeats subparagraphs (i) to (xiv) of the particulars to paragraph 201.

Awareness of the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information

- (ii) By reason some or all of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information.
- (iii) Further to subparagraph (ii) of these particulars, by reason of some or all of the matters in subparagraphs (i) to (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.4 or 1.5 (which applied at the relevant time) (pleaded at particulars (x) and (xi) to paragraph 7C above, WCA.3001.0380.0147 and WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King, and Ms Wood ought reasonably to have come into possession of the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information.

205. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 28 November 2018 IFTI Reporting Failures Information.

**Particulars**

Awareness of the information in paragraph 170 and subparagraph 190(a)

- (i) The applicant repeats subparagraphs (i) to (viii) of the particulars to paragraph 174 and subparagraphs (i) to (iii) of the particulars to paragraph 199 above.

Awareness of the 28 November 2018 IFTI Reporting Failures Information

- (ii) By reason of the matters in subparagraph (i), Mr Hartzler, Mr Maxsted, Mr Kelly, Mr Stephen, Ms Cobley, Ms Challenor, Mr King, Mr Lees, Ms Lim and Ms Wood ought to have caused Westpac to investigate the matters in paragraph 170 and/or subparagraph 190(a) and detect and escalate the 28 November 2018 IFTI Reporting Failures Information to each of them.

206. On and from 28 November 2018 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rule 19.12) of the 28 November 2018 IFTI Reporting Failures and Loss Information.

**Particulars**

Awareness of the information in paragraph 170 and subparagraph 190(a)

- (i) The applicant repeats subparagraphs (i) to (viii) of the particulars to paragraph 174 and subparagraph (i) to (iii) of the particulars to paragraph 199 above.

Awareness of the 28 November 2018 IFTI Reporting Failures and Loss Information

- (ii) By reason of the matters in subparagraph (i), Mr Hartzler, Mr Maxsted, Mr Kelly, Mr Stephen, Ms Cobley, Ms Challenor, Mr King, Mr Lees, Ms Lim and Ms Wood ought to have caused Westpac to investigate the matters in paragraph 170 subparagraph 190(a) and detect and escalate the 28 November 2018 IFTI Reporting Failures and Loss Information to each of them.

#### **C.1.10 As at 18 April 2019**

207. On 25 January 2019, a Memorandum to the Board Risk & Compliance Committee sent to Mr Hartzler, Mr Maxsted, Ms Cobley, Mr Stephen, Mr King and Ms Lim stated that:

“Group Technology has completed a technical review of the enterprise back-up integrity status, which was triggered by the recent Westpac Institutional Bank (WIB) International Funds Transfer Instruction (IFTI) reporting issue. The technical review of 9 back-up platforms encompassing over 15,900 servers identified the following issues: ... IFTI-related issues: ... 2 WIBS servers associated with IFTIs were rated Red by Group Technology because required historical data is unavailable on back-up and unable to be reconstructed from other sources within the Group”.

#### **Particulars**

WBC.0001.0008.1017; WBC.0001.0002.2597

208. On 31 January 2019, Ms Wood sent a letter to AUSTRAC which was copied to Mr Stephen that responded to a s 167 notice dated 21 December 2018 that stated:

“From November 2014, as part of the data centre relocation, a new electronic backup solution was implemented for WIBS. This solution was configured to take daily and monthly snapshot backups (which capture the WIBS system and customer files at a point in time) with the daily backups configured to be stored for 32 days, and the monthly backups configured to be stored for 12 months from the date of backup. As a result of this configuration, monthly backups taken in December 2014 expired in December 2015, creating a gap in data stored by the WIBS system post December 2015. This configuration was updated in February 2017 to store monthly backups for

7 years. For the period November 2014 to February 2017, no backups were retained for the WIBS system”.

**Particulars**

WCA.2100.0001.5881 at .5990 to .5991 and .6031.

209. On 26 February 2019, a Memorandum to the Board authored by Ms Wood and Mr Kelly, sponsored by Mr Stephen and sent to Mr Hartzler and Mr Maxsted stated:

“AUSTRAC intensity of scrutiny on this matter has escalated, and we expect that potentially significant enforcement action is under consideration. Should this occur, the potential outcome could be significant”.

**Particulars**

WBC.0001.0002.2605 at .2606.

210. On 6 March 2019, during a meeting of the Board Risk & Compliance Committee attended by Mr Hartzler, Mr Maxsted, Mr King, Mr Stephen, Ms Lim, Ms Cobley, Mr Kelly and Ms Wood, it was noted that:

“management is continuing to respond to notices and meet with AUSTRAC on the IFTI matter and that AUSTRAC has indicated that the matter is considered to be significant in terms of the scale of the transactions involved, the period over which it persisted and the control issues evident. It was noted that management is working to complete the investigation and remediate the issues as quickly as possible, having regard to the complexity of the multiple payment channels, and there is increased potential for enforcement actions, including potential civil penalty proceedings”.

**Particulars**

WCA.8902.0027.2100 at .2106.

211. On 19 March 2019, a Memorandum to the Westpac Institutional Bank Risk and Compliance Committee authored by Ms Wood, sponsored by Ms Challenor and sent to Ms Cobley stated that:

“We continue activities to identify and remediate IFTI reporting issues as rapidly as possible. Interactions with AUSTRAC in relation to this matter have moved toward a more formal level of engagement. It is now considered likely that AUSTRAC is considering enforcement action in relation to this matter”.

**Particulars**

WCA.2000.0001.8562 at .8563; WCA.2000.0001.8561;

WCA.2000.0001.8562; WBC.0201.0029.4001; WBC.0201.0029.4002.

212. On 26 March 2019, Ms Challenor presented an “IFTI Update” to an unknown group which stated that:

“Interactions with AUSTRAC in relation to this matter have moved towards a more formal level of engagement. ... It is now considered likely that AUSTRAC is considering enforcement action in relation to this matter. ... Given seriousness [sic] of the issues (which extend beyond IFTI non-reporting), AUSTRAC is likely to take enforcement action. ... The most likely action is civil penalty proceedings”.

**Particulars**

(i) WCA.2000.0041.7577

(ii) Further particulars may be provided after further discovery.

213. On 18 April 2019, a Memorandum to the Board Risk and Compliance Committee authored by Ms Wood and Mr Kelly, sponsored by Mr Stephen and sent to Mr Crouch, Ms Caesar, Ms Deans, Mr Dunn, Ms Fung, Mr Harker, Mr Marriott, Mr Nash, Mr Maxsted and Ms Seale stated:

(a) “It is recommended that the Committee approve ... a new Westpac Group Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Transaction Reporting Standard (Transaction Reporting Standard)”;

(b) “The Transaction Reporting Standard will form part of the Westpac Group Part A AML/CTF Program (Part A Program)”; and

(c) “Area[s] for improvement identified” included:

- (i) “Lack of detail provided for determining whether an instruction is an IFTI and hence reportable to AUSTRAC”;
- (ii) “Lack of governance processes for making amendments to systems which either generate IFTI/TTRs, or collect information which is relevant for reporting an IFTI or TTR”; and
- (iii) “Insufficient assessment of new products or services, or changes to products or services, that may have an impact on transaction reporting obligations”.

### Particulars

WCA.2000.0294.0168 at .0168 and .0172 to .0174.

214. By reason of the matters in paragraphs 69, 85 to 88, 102, 104 to 106, 116, 126 to 139, 165 to 169, 178 to 189 and 207 to 213, by no later than 18 April 2019, it was the case that, in addition to the matters alleged at paragraphs 70, 89, 107, 117, 140, 170 and 190, Westpac’s Part A Program:
- (a) lacked detail for determining whether an instruction is an international funds transfer instruction and thereby reportable to AUSTRAC;
  - (b) lacked governance processes for making amendments to systems that generated international funds transfer instructions or threshold transaction reports and systems that collected information relevant to reporting of international funds transfer instructions or threshold transaction; and
  - (c) lacked processes to ensure the sufficient assessment of new products or services, or changes to products or services, that may have an impact on transaction reporting obligations.
215. By no later than 18 April 2019, Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (a) due diligence assessments of correspondent banking relationships;
- (b) ongoing customer due diligence
- (c) retention of records about electronic funds transfer instructions;
- (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and/or
- (e) transfer information for electronic funds transfer instructions.

**(the 18 April 2019 Systemic Non-Compliance Information).**

### **Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214.*

216. By no later than 18 April 2019:

- (a) Westpac was in serious and systemic non-compliance with the AML/CTF Act because it had contravened the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
  - (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence
  - (iii) retention of records about electronic funds transfer instructions;
  - (iv) adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and/or
  - (v) transfer information for electronic funds transfer instructions; and
- (b) there was a significant risk that Westpac would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs.

**(the 18 April 2019 Systemic Non-Compliance and Loss Information).**

**Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214.*

217. Alternatively to paragraphs 215 and 216, by no later than 18 April 2019, there was a significant risk that Westpac was in serious and systemic non-compliance with the AML/CTF Act because Westpac had contravened or had deficiencies in its processes for complying with the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:
- (a) due diligence assessments of correspondent banking relationships;
  - (b) ongoing customer due diligence
  - (c) retention of records about electronic funds transfer instructions;
  - (d) adoption and maintenance of an anti-money laundering and counter-terrorism financing program;
  - (e) transfer information for electronic funds transfer instructions,

**(the 18 April 2019 Risk of Systemic Non-Compliance Information).**

**Particulars**

*The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214.*

218. By no later than 18 April 2019, there was a significant risk that Westpac:
- (a) was in serious and systemic non-compliance with the AML/CTF Act because Westpac had contravened or had deficiencies in its processes for complying with the AML/CTF Act with respect to the reporting of international funds transfer instructions and in one or more of the following areas:

- (i) due diligence assessments of correspondent banking relationships;
  - (ii) ongoing customer due diligence
  - (iii) retention of records about electronic funds transfer instructions;
  - (iv) adoption and maintenance of an anti-money laundering and counter-terrorism financing program; and/or
  - (v) transfer information for electronic funds transfer instructions; and
- (b) would suffer loss in the form of the imposition of substantial fines and/or significant remediation costs,

(the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information).

#### Particulars

The applicant relies upon the matters in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214.

219. On and from 18 April 2019 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 18 April 2019 Systemic Non-Compliance Information.

#### Particulars

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170, and 190

- (i) The applicant repeats subparagraphs (i) to (xiv) of the particulars to paragraph 201 above.
- (ii) Further to subparagraph (i), by reason of the matters pleaded in paragraph 207, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr Stephen, Mr King and Ms Lim were in possession of the information pleaded in subparagraph 190(b)(iii).

- (iii) Further to subparagraph (i), by reason of the matters pleaded in paragraph 208, Ms Wood was in possession of the information pleaded in subparagraph 190(b)(iii).

Awareness of the information in subparagraph 214

- (iv) By reason of the matters pleaded in paragraph 213, Ms Wood, Mr Kelly, Mr Stephen and Mr Maxsted were in possession of the information pleaded in paragraph 214.
- (v) Further, Ms Wood, Mr Kelly and Mr Stephen were required by the Incident Management Policy v 1.5 (which applied at the relevant time) (pleaded at particular (xi) to paragraph 7C above, WCA.3003.0230.1696) to bring the information pleaded in paragraph 214 promptly to the attention of the following officers: Mr Hartzler, Ms Cobley, Mr Stephen, Ms Lim, Mr King and Ms Wood.

Awareness of the 18 April 2019 Systemic Non-Compliance Information

- (vi) By reason of the matters in subparagraphs (i) to (v) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Holcomb, Ms Lim, Ms Challenor, Mr Kelly Ms Wood, Ms Peacock and Mr Stephen were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Systemic Non-Compliance Information.
- (vii) Alternatively to subparagraph (vi) of these particulars, by reason of some or all of the matters in subparagraphs (i) to (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201 and subparagraphs (ii) to (iv) of these particulars, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Systemic Non-Compliance Information and were required by the Incident Management Policy v 1.5 (which applied at the relevant time) (pleaded at particular (xi) to paragraph 7C above, WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim,

Mr King and Ms Wood ought reasonably to have come into possession of the 18 April 2019 Systemic Non-Compliance Information.

220. On and from 18 April 2019 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 18 April 2019 Systemic Non-Compliance and Loss Information.

### **Particulars**

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214

- (i) The applicant repeats subparagraphs (i) to (v) of the particulars to paragraph 219.

Awareness of the 18 April 2019 Systemic Non-Compliance and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Ms Wood and Mr Stephen were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Systemic Non-Compliance and Loss Information.

- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of some or all of the matters in subparagraphs (i) to (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201 and subparagraphs (ii) to (iv) of the particulars to paragraph 219, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Woods were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Systemic Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.5 (which applied at the relevant time) (pleaded at particular (xi) to paragraph 7C above, WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms

Wood ought reasonably to have come into possession of the 18 April 2019 Systemic Non-Compliance and Loss Information.

221. On and from 18 April 2019 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 18 April 2019 Risk of Systemic Non-Compliance Information.

### Particulars

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214

- (i) The applicant repeats subparagraphs (i) to (v) of the particulars to paragraph 219.

Awareness of the 18 April 2019 Risk of Systemic Non-Compliance Information

- (ii) By reason of the matters in subparagraph (i) of these particulars Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Ms Wood and Mr Stephen were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Risk of Systemic Non-Compliance Information.
- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of some or all of the matters in subparagraphs (i) to (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201 and subparagraphs (ii) to (iv) of paragraph 219, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Risk of Systemic Non-Compliance Information and were required by the Incident Management Policy v 1.5 (which applied at the relevant time) (pleaded at particular (xi) to paragraph 7C above, WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood ought reasonably to have come into

possession of the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information.

222. On and from 18 April 2019 or shortly thereafter, Westpac was aware (within the meaning of ASX Listing Rules 19.12) of the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information.

### **Particulars**

Awareness of the information in paragraphs 70, 89, 107, 117, 140, 170, 190 and 214

- (i) The applicant repeats subparagraphs (i) to (v) of the particulars to paragraph 219.

Awareness of the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information

- (ii) By reason of the matters in subparagraph (i) of these particulars, Mr Hartzler, Mr Maxsted, Ms Cobley, Mr King, Ms Lim, Ms Challenor, Mr Kelly Ms Wood and Mr Stephen were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information.
- (iii) Alternatively to subparagraph (ii) of these particulars, by reason of some or all of the matters in subparagraphs (i) to (iii), (v), (vii), (viii), and (x) to (xiii) of the particulars to paragraph 201 and subparagraphs (ii) to (iv) of paragraph 219, Ms Cobley, Mr King, Mr Lim, Ms Challenor, Mr Kelly, Mr Stephen and Ms Wood were in possession of, or ought reasonably to have come into possession of, the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information and were required by the Incident Management Policy v 1.5 (which applied at the relevant time) (pleaded at particular (xi) to paragraph 7C above, WCA.3003.0230.1696) to bring that information promptly to the attention of the following officers: Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood such that Mr Hartzler, Mr Stephen, Ms Lim, Mr King and Ms Wood ought reasonably to have come into possession of the 18 April

2019 Risk of Systemic Non-Compliance and Loss Information.

**C.2 Continuous Disclosure Contraventions**

**C.2.1 30 June 2014 Risk of IFTI Non-Compliance Information**

223. As at, and from, 30 June 2014, and at all material times thereafter, the 30 June 2014 Risk of IFTI Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
224. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 223, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 June 2014, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 June 2014 Risk of IFTI Non-Compliance Information.
225. Westpac did not inform the ASX and/or NZX of the 30 June 2014 Risk of IFTI Non-Compliance Information immediately on 30 June 2014, and at all material times thereafter, or at all.
226. By reason of the matters pleaded in paragraphs 61, and 223 to 225, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 June 2014 Risk of IFTI Non-Compliance Information Continuous Disclosure Contravention).

**C.2.2 30 June 2014 Risk of IFTI Non-Compliance and Loss Information**

227. As at, and from, 30 June 2014, and at all material times thereafter, the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
- 228. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 227, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 June 2014, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information.
- 229. Westpac did not inform the ASX and/or NZX of the 30 June 2014 Risk of IFTI Non-Compliance and Loss Information immediately on 30 June 2014, and at all material times thereafter, or at all.
- 230. By reason of the matters pleaded in paragraphs 62, and 227 to 229, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 June 2014 Risk of IFTI Non-Compliance and Loss Information Continuous Disclosure Contravention).

### **C.2.3 30 June 2014 IFTI Reporting Failures Information**

- 231. As at, and from, 30 June 2014, and at all material times thereafter, the 30 June 2014 IFTI Reporting Failures Information was information that:
  - (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
- 232. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 231, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 June 2014, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 June 2014 IFTI Non-Compliance Information.

233. Westpac did not inform the ASX and/or NZX of the 30 June 2014 IFTI Non-Compliance Information immediately on 30 June 2014, and at all material times thereafter, or at all.

234. By reason of the matters pleaded in paragraphs 63, and 231 to 233, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 June 2014 IFTI Reporting Failures Information Continuous Disclosure Contravention).

#### **C.2.4 30 June 2014 IFTI Reporting Failures and Loss Information**

235. As at, and from, 30 June 2014, and at all material times thereafter, the 30 June 2014 IFTI Reporting Failures and Loss Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

236. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 235, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 June 2014, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 June 2014 IFTI Non-Compliance Information.

237. Westpac did not inform the ASX and/or NZX of the 30 June 2014 IFTI Non-Compliance Information immediately on 30 June 2014, and at all material times thereafter, or at all.

238. By reason of the matters pleaded in paragraphs 64, and 235 to 237, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 June 2014 IFTI Reporting Failures and Loss Information Continuous Disclosure Contravention).

**C.2.5 27 January 2015 Risk of Systemic Non-Compliance Information**

239. As at, and from, 27 January 2015, and at all material times thereafter, the 27 January 2015 Risk of Systemic Non-Compliance Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

240. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 239, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 27 January 2015, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 27 January 2015 Risk of Systemic Non-Compliance Information.

241. Westpac did not inform the ASX and/or NZX of the 27 January 2015 Risk of Systemic Non-Compliance Information immediately on 27 January 2015, and at all material times thereafter, or at all.

242. By reason of the matters pleaded in paragraphs 71, and 239 to 241, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (27 January 2015 Risk of Systemic Non-Compliance Information Continuous Disclosure Contravention).

**C.2.6 27 January 2015 Risk of Systemic Non-Compliance and Loss Information**

243. As at, and from, 27 January 2015, and at all material times thereafter, the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
244. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 243, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 27 January 2015, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information.
245. Westpac did not inform the ASX and/or NZX of the 27 January 2015 Risk of Systemic Non-Compliance and Loss Information immediately on 27 January 2015, and at all material times thereafter, or at all.
246. By reason of the matters pleaded in paragraphs 72, and 243 to 245, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (27 January 2015 Risk of Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.7 15 July 2015 Risk of IFTI Non-Compliance Information**

247. As at, and from, 15 July 2015, and at all material times thereafter, the 15 July 2015 Risk of IFTI Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
248. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 247, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 July 2015, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 July 2015 Risk of IFTI Non-Compliance Information.

249. Westpac did not inform the ASX and/or NZX of 15 July 2015 Risk of IFTI Non-Compliance Information immediately on 15 July 2015, and at all material times thereafter, or at all.
250. By reason of the matters pleaded in paragraphs 77, and 247 to 249, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 July 2015 Risk of IFTI Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.8 15 July 2015 Risk of IFTI Non-Compliance and Loss Information**

251. As at, and from, 15 July 2015, and at all material times thereafter, the 15 July 2015 Risk of IFTI Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
252. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 251, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 July 2015, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 July 2015 Risk of IFTI Non-Compliance and Loss Information.
253. Westpac did not inform the ASX and/or NZX of 15 July 2015 Risk of IFTI Non-Compliance and Loss Information immediately on 15 July 2015, and at all material times thereafter, or at all.

254. By reason of the matters pleaded in paragraphs 78, and 251 to 253, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 July 2015 Risk of IFTI Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.9 15 July 2015 IFTI Reporting Failures Information**

255. As at, and from, 15 July 2015, and at all material times thereafter, the 15 July 2015 IFTI Reporting Failures Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

256. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 255, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 July 2015, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 July 2015 IFTI Reporting Failures Information.

257. Westpac did not inform the ASX and/or NZX of 15 July 2015 IFTI Reporting Failures Information immediately on 15 July 2015, and at all material times thereafter, or at all.

258. By reason of the matters pleaded in paragraphs 79, and 255 to 257, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 July 2015 IFTI Reporting Failures Information Continuous Disclosure Contravention).

**C.2.10 15 July 2015 IFTI Reporting Failures and Loss Information**

259. As at, and from, 15 July 2015, and at all material times thereafter, the 15 July 2015 IFTI Reporting Failures and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
260. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 259, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 July 2015, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 July 2015 IFTI Reporting Failures and Loss Information.
261. Westpac did not inform the ASX and/or NZX of 15 July 2015 IFTI Reporting Failures and Loss Information immediately on 15 July 2015, and at all material times thereafter, or at all.
262. By reason of the matters pleaded in paragraphs 80, and 259 to 261, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 July 2015 IFTI Reporting Failures and Loss Information Continuous Disclosure Contravention).

#### **C.2.11 1 December 2016 Risk of Systemic Non-Compliance Information**

263. As at, and from, 1 December 2016, and at all material times thereafter, the 1 December 2016 Risk of Systemic Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
264. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 263, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 1 December 2016, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 1 December 2016 Information Risk of Systemic Non-Compliance.

265. Westpac did not inform the ASX and/or NZX of the 1 December 2016 Risk of Systemic Non-Compliance Information immediately on 1 December 2016, and at all material times thereafter, or at all.

266. By reason of the matters pleaded in paragraphs 90, and 263 to 265, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (1 December 2016 Risk of Systemic Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.12 1 December 2016 Risk of Systemic Non-Compliance and Loss Information**

267. As at, and from, 1 December 2016, and at all material times thereafter, the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

268. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 267, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 1 December 2016, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information.

269. Westpac did not inform the ASX and/or NZX of the 1 December 2016 Risk of Systemic Non-Compliance and Loss Information immediately on 1 December 2016, and at all material times thereafter, or at all.
270. By reason of the matters pleaded in paragraphs 91, and 267 to 269, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (1 December 2016 Risk of Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.13 1 December 2016 Failure to Monitor for Child Exploitation Information**

271. As at, and from, 1 December 2016, and at all material times thereafter, the 1 December 2016 Failure to Monitor for Child Exploitation Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
272. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 271, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 1 December 2016, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 1 December 2016 Failure to Monitor for Child Exploitation Information.
273. Westpac did not inform the ASX and/or NZX of the 1 December 2016 Failure to Monitor for Child Exploitation Information immediately on 1 December 2016, and at all material times thereafter, or at all.
274. By reason of the matters pleaded in paragraphs 92, 271 and 273, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX

Listing Rule 1.7.2 (1 December 2016 Failure to Monitor for Child Exploitation Information Continuous Disclosure Contravention).

**C.2.14 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information**

275. As at, and from, 1 December 2016, and at all material times thereafter, the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
276. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 275, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 1 December 2016, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information.
277. Westpac did not inform the ASX and/or NZX of the 1 December 2016 Child Exploitation and Loss Information immediately on 1 December 2016, and at all material times thereafter, or at all.
278. By reason of the matters pleaded in paragraphs 93, and 275 to 277, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (1 December 2016 Failure to Monitor for Child Exploitation and Loss Information Continuous Disclosure Contravention).

**C.2.15 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information**

279. As at, and from, 1 December 2016, and at all material times thereafter, the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
280. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 279, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 1 December 2016, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information.
281. Westpac did not inform the ASX and/or NZX of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information immediately on 1 December 2016, and at all material times thereafter, or at all.
282. By reason of the matters pleaded in paragraphs 94, and 279 to 281, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (1 December 2016 Risk of Failure to Monitor for Child Exploitation Information Continuous Disclosure Contravention).

**C.2.16 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information**

283. As at, and from, 1 December 2016, and at all material times thereafter, the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
284. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 283, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 1 December 2016, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information.
285. Westpac did not inform the ASX and/or NZX of the 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information immediately on 1 December 2016, and at all material times thereafter, or at all.
286. By reason of the matters pleaded in paragraphs 91, and 283 to 285, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information Continuous Disclosure Contravention).

**C.2.17 31 August 2017 IFTI Non-Compliance Information**

287. As at, and from, 31 August 2017, and at all material times thereafter, the 31 August 2017 IFTI Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
288. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 287, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 August 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 August 2017 IFTI Non-Compliance Information.

289. Westpac did not inform the ASX and/or NZX of the 31 August 2017 IFTI Non-Compliance Information immediately on 31 August 2017, and at all material times thereafter, or at all.

290. By reason of the matters pleaded in paragraphs 108, and 287 to 289, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 August 2017 IFTI Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.18 31 August 2017 IFTI Non-Compliance and Loss Information**

291. As at, and from, 31 August 2017, and at all material times thereafter, the 31 August 2017 IFTI Non-Compliance and Loss Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

292. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 291, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 August 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 August 2017 IFTI Non-Compliance and Loss Information.

293. Westpac did not inform the ASX and/or NZX of the 31 August 2017 IFTI Non-Compliance and Loss Information immediately on 31 August 2017, and at all material times thereafter, or at all.

294. By reason of the matters pleaded in paragraphs 109, and 291 to 293, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 August 2017 IFTI Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.19 31 August 2017 IFTI Reporting Failures Information**

295. As at, and from, 31 August 2017, and at all material times thereafter, the 31 August 2017 IFTI Reporting Failures Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

296. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 295, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 August 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 August 2017 IFTI Reporting Failures Information.

297. Westpac did not inform the ASX and/or NZX of the 31 August 2017 IFTI Reporting Failures Information immediately on 31 August 2017, and at all material times thereafter, or at all.

298. By reason of the matters pleaded in paragraphs 110, and 295 to 297, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 August 2017 IFTI Reporting Failures Information Continuous Disclosure Contravention).

**C.2.20 31 August 2017 IFTI Reporting Failures and Loss Information**

299. As at, and from, 31 August 2017, and at all material times thereafter, the 31 August 2017 IFTI Reporting Failures and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
300. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 299, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 August 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 August 2017 IFTI Reporting Failures and Loss Information.
301. Westpac did not inform the ASX and/or NZX of the 31 August 2017 IFTI Reporting Failures and Loss Information immediately on 31 August 2017, and at all material times thereafter, or at all.
302. By reason of the matters pleaded in paragraphs 111, and 299 to 301, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 August 2017 IFTI Reporting Failures and Loss Information Continuous Disclosure Contravention).

**C.2.21 30 September 2017 Systemic Non-Compliance Information**

303. As at, and from, 30 September 2017, and at all material times thereafter, the 30 September 2017 Systemic Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
304. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 303, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 September 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 September 2017 Systemic Non-Compliance Information.

305. Westpac did not inform the ASX and/or NZX of the 30 September 2017 Systemic Non-Compliance Information immediately on 30 September 2017, and at all material times thereafter, or at all.

306. By reason of the matters pleaded in paragraphs 118, and 303 to 305, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 September 2017 Systemic Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.22 30 September 2017 Systemic Non-Compliance and Loss Information**

307. As at, and from, 30 September 2017, and at all material times thereafter, the 30 September 2017 Systemic Non-Compliance and Loss Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

308. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 307, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 September 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 September 2017 Systemic Non-Compliance and Loss Information.

309. Westpac did not inform the ASX and/or NZX of the 30 September 2017 Systemic Non-Compliance and Loss Information immediately on 30 September 2017, and at all material times thereafter, or at all.
310. By reason of the matters pleaded in paragraphs 119, and 307 to 309, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 September 2017 Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.23 30 September 2017 Risk of Systemic Non-Compliance Information**

311. As at, and from, 30 September 2017, and at all material times thereafter, the 30 September 2017 Systemic Risk of Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
312. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 311, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 September 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 September 2017 Risk of Systemic Non-Compliance Information.
313. Westpac did not inform the ASX and/or NZX of the 30 September 2017 Risk of Systemic Non-Compliance Information immediately on 30 September 2017, and at all material times thereafter, or at all.
314. By reason of the matters pleaded in paragraphs 120, and 311 to 313, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 September 2017 Risk of Systemic Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.24 30 September 2017 Risk of Systemic Non-Compliance and Loss Information**

315. As at, and from, 30 September 2017, and at all material times thereafter, the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
316. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 315, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 30 September 2017, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information.
317. Westpac did not inform the ASX and/or NZX of the 30 September 2017 Risk of Systemic Non-Compliance and Loss Information immediately on 30 September 2017, and at all material times thereafter, or at all.
318. By reason of the matters pleaded in paragraphs 121, and 315 to 317, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (30 September 2017 Risk of Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

#### **C.2.25 31 May 2018 IFTI Non-Compliance Information**

319. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 IFTI Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
320. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 319, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 IFTI Non-Compliance Information.
321. Westpac did not inform the ASX and/or NZX of the 31 May 2018 IFTI Non-Compliance Information immediately on 31 May 2018, and at all material times thereafter, or at all.
322. By reason of the matters pleaded in paragraphs 141, and 319 to 321, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 IFTI Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.26 31 May 2018 IFTI Non-Compliance and Loss Information**

323. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 IFTI Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
324. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 323, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac

became obliged immediately to tell the ASX and/or NZX the 31 May 2018 IFTI Non-Compliance and Loss Information.

325. Westpac did not inform the ASX and/or NZX of the 31 May 2018 IFTI Non-Compliance and Loss Information immediately on 31 May 2018, and at all material times thereafter, or at all.
326. By reason of the matters pleaded in paragraphs 142, and 323 to 325, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 IFTI Non-Compliance and Loss Information Continuous Disclosure Contravention).

#### **C.2.27 31 May 2018 Systemic Non-Compliance Information**

327. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Systemic Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
328. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 327, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Systemic Non-Compliance Information.
329. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Systemic Non-Compliance Information immediately on 31 May 2018, and at all material times thereafter, or at all.
330. By reason of the matters pleaded in paragraphs 143, and 327 to 329, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX

Listing Rule 1.7.2 (31 May 2018 Systemic Non-Compliance Information Continuous Disclosure Contravention).

**C.2.28 31 May 2018 Systemic Non-Compliance and Loss Information**

331. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Systemic Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
332. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 331, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Systemic Non-Compliance and Loss Information.
333. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Systemic Non-Compliance and Loss Information immediately on 31 May 2018, and at all material times thereafter, or at all.
334. By reason of the matters pleaded in paragraphs 144, and 331 to 333, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.29 31 May 2018 Risk of Systemic Non-Compliance Information**

335. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Risk of Systemic Non-Compliance Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
- 336. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 335, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Risk of Systemic Non-Compliance Information.
- 337. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Risk of Systemic Non-Compliance Information immediately on 31 May 2018, and at all material times thereafter, or at all.
- 338. By reason of the matters pleaded in paragraphs 145, and 335 to 337, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Risk of Systemic Non-Compliance Information Continuous Disclosure Contravention).

**C.2.30 31 May 2018 Risk of Systemic Non-Compliance and Loss Information**

- 339. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information was information that:
  - (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
- 340. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 339, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information.

341. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Risk of Systemic Non-Compliance and Loss Information immediately on 31 May 2018, and at all material times thereafter, or at all.

342. By reason of the matters pleaded in paragraphs 146, and 339 to 341, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Risk of Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

#### **C.2.31 31 May 2018 Failure to Monitor for Child Exploitation Information**

343. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Failure to Monitor for Child Exploitation Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

344. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 343, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Failure to Monitor for Child Exploitation Information.

345. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Failure to Monitor for Child Exploitation Information immediately on 31 May 2018, and at all material times thereafter, or at all.

346. By reason of the matters pleaded in paragraphs 147, and 343 to 345, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Failure to Monitor for Child Exploitation Information Continuous Disclosure Contravention).

**C.2.32 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information**

347. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

348. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 347, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information.

349. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information immediately on 31 May 2018, and at all material times thereafter, or at all.

350. By reason of the matters pleaded in paragraphs 148, and 347 to 349, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Failure to Monitor for Child Exploitation and Loss Information).

**C.2.33 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information**

351. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
352. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 351, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Risk of Failure to Monitor for Child Exploitation Information.
353. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Risk of Failure to Monitor for Risk of Child Exploitation Information immediately on 31 May 2018, and at all material times thereafter, or at all.
354. By reason of the matters pleaded in paragraphs 149, and 351 to 353, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Risk of Failure to Monitor for Child Exploitation Information).

**C.2.34 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information**

355. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

356. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 355, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information.
357. Westpac did not inform the ASX and/or NZX of the 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information immediately on 31 May 2018, and at all material times thereafter, or at all.
358. By reason of the matters pleaded in paragraphs 150, and 355 to 357, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information)

#### **C.2.35 31 May 2018 IFTI Reporting Failures Information**

359. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 IFTI Reporting Failures Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
360. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 359, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 IFTI Reporting Failures Information.

361. Westpac did not inform the ASX and/or NZX of the 31 May 2018 IFTI Reporting Failures Information immediately on 31 May 2018, and at all material times thereafter, or at all.
362. By reason of the matters pleaded in paragraphs 147, and 359 to 361, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 IFTI Reporting Failures Information Continuous Disclosure Contravention).

### **C.2.36 31 May 2018 IFTI Reporting Failures and Loss Information**

363. As at, and from, 31 May 2018, and at all material times thereafter, the 31 May 2018 IFTI Reporting Failures and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
364. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 363, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 31 May 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 31 May 2018 IFTI Reporting Failures and Loss Information.
365. Westpac did not inform the ASX and/or NZX of the 31 May 2018 IFTI Reporting Failures and Loss Information immediately on 31 May 2018, and at all material times thereafter, or at all.
366. By reason of the matters pleaded in paragraphs 152, and 363 to 365, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (31 May 2018 IFTI Reporting Failures and Loss Information Continuous Disclosure Contravention).

**C.2.37 15 August 2018 IFTI Non-Compliance Information**

367. As at, and from, 15 August 2018, and at all material times thereafter, the 15 August 2018 IFTI Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
368. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 367, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 August 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 August 2018 IFTI Non-Compliance Information.
369. Westpac did not inform the ASX and/or NZX of the 15 August 2018 IFTI Non-Compliance Information immediately on 15 August 2018, and at all material times thereafter, or at all.
370. By reason of the matters pleaded in paragraphs 170, and 367 to 369, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 August 2018 IFTI Non-Compliance Information Continuous Disclosure Contravention).

**C.2.38 15 August 2018 IFTI Non-Compliance and Loss Information**

371. As at, and from, 15 August 2018, and at all material times thereafter, the 15 August 2018 IFTI Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
372. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 371, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 August 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 August 2018 IFTI Non-Compliance and Loss Information.
373. Westpac did not inform the ASX and/or NZX of the 15 August 2018 IFTI Non-Compliance and Loss Information immediately on 15 August 2018, and at all material times thereafter, or at all.
374. By reason of the matters pleaded in paragraphs 171, and 371 to 373, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 August 2018 IFTI Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.39 15 August 2018 IFTI Reporting Failures Information**

375. As at, and from, 15 August 2018, and at all material times thereafter, the 15 August 2018 IFTI Reporting Failures Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
376. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 375, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 August 2018, and at all material times thereafter, Westpac

became obliged immediately to tell the ASX and/or NZX the 15 August 2018 IFTI Reporting Failures Information.

377. Westpac did not inform the ASX and/or NZX of the 15 August 2018 IFTI Reporting Failures Information immediately on 15 August 2018, and at all material times thereafter, or at all.

378. By reason of the matters pleaded in paragraphs 172, and 375 to 377, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (15 August 2018 IFTI Reporting Failures Information Continuous Disclosure Contravention).

#### **C.2.40 15 August 2018 IFTI Reporting Failures and Loss Information**

379. As at, and from, 15 August 2018, and at all material times thereafter, the 15 August 2018 IFTI Reporting Failures and Loss Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

380. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 379, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 15 August 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 15 August 2018 IFTI Reporting Failures and Loss Information.

381. Westpac did not inform the ASX and/or NZX of the 15 August 2018 IFTI Reporting Failures and Loss Information immediately on 15 August 2018, and at all material times thereafter, or at all.

382. By reason of the matters pleaded in paragraphs 173, and 379 to 381, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX

Listing Rule 1.7.2 (15 August 2018 IFTI Reporting Failures and Loss Information Continuous Disclosure Contravention).

**C.2.41 28 November 2018 IFTI Non-Compliance Information**

383. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November 2018 IFTI Non-Compliance Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

384. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 383, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 IFTI Non-Compliance Information.

385. Westpac did not inform the ASX and/or NZX of the 28 November 2018 IFTI Non-Compliance Information immediately on 28 November 2018, and at all material times thereafter, or at all.

386. By reason of the matters pleaded in paragraphs 191, and 383 to 385, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 IFTI Non-Compliance Information Continuous Disclosure Contravention).

**C.2.42 28 November 2018 IFTI Non-Compliance and Loss Information**

387. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November 2018 IFTI Non-Compliance and Loss Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
388. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 387, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 IFTI Non-Compliance and Loss Information.
389. Westpac did not inform the ASX and/or NZX of the 28 November 2018 IFTI Non-Compliance and Loss Information immediately on 28 November 2018, and at all material times thereafter, or at all.
390. By reason of the matters pleaded in paragraphs 192, and 387 to 389, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 IFTI Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.43 28 November 2018 Systemic Non-Compliance Information**

391. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November 2018 Systemic Non-Compliance Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
392. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 391, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 Systemic Non-Compliance Information.

393. Westpac did not inform the ASX and/or NZX of the 28 November 2018 Systemic Non-Compliance Information immediately on 28 November 2018, and at all material times thereafter, or at all.

394. By reason of the matters pleaded in paragraphs 193, and 391 to 393, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 Systemic Non-Compliance Information Continuous Disclosure Contravention).

#### **C.2.44 28 November 2018 Systemic Non-Compliance and Loss Information**

395. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November Systemic Non-Compliance and Loss Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

396. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 395, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 Systemic Non-Compliance and Loss Information.

397. Westpac did not inform the ASX and/or NZX of the 28 November 2018 Systemic Non-Compliance and Loss Information immediately on 28 November 2018, and at all material times thereafter, or at all.

398. By reason of the matters pleaded in paragraphs 194, and 395 to 397, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.45 28 November 2018 Risk of Systemic Non-Compliance Information**

399. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November 2018 Risk of Systemic Non-Compliance Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

400. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 399, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 Risk of Systemic Non-Compliance Information.

401. Westpac did not inform the ASX and/or NZX of the 28 November 2018 Risk of Systemic Non-Compliance Information immediately on 28 November 2018, and at all material times thereafter, or at all.

402. By reason of the matters pleaded in paragraphs 195, and 399 to 401, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 Risk of Systemic Non-Compliance Information Continuous Disclosure Contravention).

**C.2.46 28 November 2018 Risk of Systemic Non-Compliance and Loss Information**

403. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
404. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 403, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information.
405. Westpac did not inform the ASX and/or NZX of the 28 November 2018 Risk of Systemic Non-Compliance and Loss Information immediately on 28 November 2018, and at all material times thereafter, or at all.
406. By reason of the matters pleaded in paragraphs 196, and 403 to 405, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 Risk of Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.47 28 November 2018 IFTI Reporting Failures Information**

407. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November 2018 IFTI Reporting Failures Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
408. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 407, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 28 November 2018, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 28 November 2018 IFTI Reporting Failures Information.
409. Westpac did not inform the ASX and/or NZX of the 28 November 2018 IFTI Reporting Failures Information immediately on 28 November 2018, and at all material times thereafter, or at all.
410. By reason of the matters pleaded in paragraphs 197, and 407 to 409, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 IFTI Reporting Failures Information Continuous Disclosure Contravention).

**C.2.48 28 November 2018 IFTI Reporting Failures and Loss Information**

411. As at, and from, 28 November 2018, and at all material times thereafter, the 28 November IFTI Reporting Failures and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
- (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
412. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 411, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 28 November 2018, and at all material times thereafter, Westpac

became obliged immediately to tell the ASX and/or NZX the 28 November 2018 IFTI Reporting Failures and Loss Information.

413. Westpac did not inform the ASX and/or NZX of the 28 November 2018 IFTI Reporting Failures and Loss Information immediately on 28 November 2018, and at all material times thereafter, or at all.

414. By reason of the matters pleaded in paragraphs 198, and 411 to 413, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (28 November 2018 IFTI Reporting Failures and Loss Information Continuous Disclosure Contravention).

#### **C.2.49 18 April 2019 Systemic Non-Compliance Information**

415. As at, and from, 18 April 2019, and at all material times thereafter, the 18 April 2019 Systemic Non-Compliance Information was information that:

(a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and

(b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.

416. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 415, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 18 April 2019, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 18 April 2019 Systemic Non-Compliance Information.

417. Westpac did not inform the ASX and/or NZX of the 18 April 2019 Systemic Non-Compliance Information immediately on 18 April 2019, and at all material times thereafter, or at all.

418. By reason of the matters pleaded in paragraphs 215, and 415 to 417, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX

Listing Rule 1.7.2 (18 April 2019 Systemic Non-Compliance Information Continuous Disclosure Contravention).

**C.2.50 18 April 2019 Systemic Non-Compliance and Loss Information**

419. As at, and from, 18 April 2019, and at all material times thereafter, the 18 April 2019 Systemic Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
420. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 354, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 18 April 2019, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 18 April 2019 Systemic Non-Compliance and Loss Information.
421. Westpac did not inform the ASX and/or NZX of the 18 April 2019 Systemic Non-Compliance and Loss Information immediately on 18 April 2019, and at all material times thereafter, or at all.
422. By reason of the matters pleaded in paragraphs 216, and 419 to 421, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (18 April 2019 Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

**C.2.51 18 April 2019 Risk of Systemic Non-Compliance Information**

423. As at, and from, 18 April 2019, and at all material times thereafter, the 18 April 2019 Risk of Systemic Non-Compliance Information was information that:

- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
424. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 423, and/or the First AML/CTF Compliance Representations and the Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 18 April 2019, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 18 April 2019 Risk of Systemic Non-Compliance Information.
425. Westpac did not inform the ASX and/or NZX of the 18 April 2019 Risk of Systemic Non-Compliance Information immediately on 18 April 2019, and at all material times thereafter, or at all.
426. By reason of the matters pleaded in paragraphs 217, and 423 to 425, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (18 April 2019 Risk of Systemic Non-Compliance Information Continuous Disclosure Contravention).

**C.2.52 18 April 2019 Risk of Systemic Non-Compliance and Loss Information**

427. As at, and from, 18 April 2019, and at all material times thereafter, the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information was information that:
- (a) was not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act; and
  - (b) a reasonable person would expect to have a material effect on the price or value of Westpac within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act.
428. By reason of the Continuous Disclosure Obligations, the matters pleaded in paragraph 427, and/or the First AML/CTF Compliance Representations and the

Second AML/CTF Compliance Representations pleaded in paragraphs 460 and 462 below, on and from 18 April 2019, and at all material times thereafter, Westpac became obliged immediately to tell the ASX and/or NZX the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information.

429. Westpac did not inform the ASX and/or NZX of the 18 April 2019 Risk of Systemic Non-Compliance and Loss Information immediately on 18 April 2019, and at all material times thereafter, or at all.

430. By reason of the matters pleaded in paragraphs 218, and 427 to 429, Westpac contravened ASX Listing Rule 3.1 and s 674(2) of the Corporations Act and/or NZX Listing Rule 1.7.2 (18 April 2019 Risk of Systemic Non-Compliance and Loss Information Continuous Disclosure Contravention).

#### **D. WESTPAC'S AML/CTF COMPLIANCE STATEMENTS AND CONTINUOUS DISCLOSURE STATEMENTS**

##### **D.1 Westpac's statements about AML/CTF Act compliance**

###### ***D.1.1 AML/CTF Policy***

431. At all material times in the Relevant Period, Westpac published on its website an "AML/CTF – Westpac Group Policy" (AML/CTF Policy).

##### **Particulars**

*i) <https://www.westpac.com.au/about-westpac/westpac-group/corporate-governance/aml-counter-terrorism/aml-group-policy/>*

432. In the AML/CTF Policy, Westpac made the following statements (**AML/CTF Compliance Statements**):

- (a) there is a risk of Westpac products and services being used to launder money and finance terrorism. Australian law and applicable local laws in the jurisdictions in which Westpac operates, requires Westpac to put training, processes and systems in place to identify, manage and mitigate this risk. Westpac does this to protect the Westpac Group's reputation, to comply with

relevant laws and to be a good corporate citizen. Failure to do so may result in social harm, significant penalties, including legal and regulatory action;

- (b) Westpac Group's 5 key AML/CTF principles:
  - (i) Comply with AML/CTF legislation in the countries we operate in;
  - (ii) Strive to fulfil international standards as detailed in the recommendations of the Financial Action Task Force (FATF);
  - (iii) Work in conjunction with the Australian Government and the governments of the countries we operate in, and support their objectives in relation to the prevention, detection and control of ML/TF;
  - (iv) Westpac may decide not to provide products or services based upon decisions guided by ML/TF Risk appetite and corporate social responsibility;
  - (v) Maintain and comply with an AML/CTF program, as required by Australian AML/CTF legislation.
- (c) Westpac's Board of Directors (the Board) and Senior Management have ongoing oversight of Westpac's AML/CTF policy and procedures. All permanent and temporary employees must comply with these, attend training specific to their role, and report suspicious matters or behaviours.
- (d) Westpac has a dedicated AML/CTF Officer (the Group Money Laundering Reporting Officer – MLRO), responsible for monitoring the status and effectiveness of the Group's AML/CTF risk management and compliance and reporting it to Westpac's Executive team.
- (e) The MLRO also leads a Group AML/CTF team, which maintains Westpac Group's AML/CTF policy framework, and provides subject matter expertise and advice to our businesses.
- (f) Westpac Group's AML/CTF program:

- (i) The design and implementation of the program was tailored to Westpac's ML/TF Risk profile, applying specific systems and controls, including:
  - (A) ML/TF Risk assessment;
  - (B) Employee training;
  - (C) Employee and customer due diligence;
  - (D) Transaction monitoring.
  
- (g) Westpac also reports the following information to AUSTRAC, Australia's AML/CTF regulator:
  - (i) Transactions with a cash component of AUD10,000 or more;
  - (ii) Electronic transfers of funds into or out of Australia;
  - (iii) Any transactions or other activities regarded as suspicious.

#### **D.1.2 2013 Compliance Statements**

- 433. [On 4 November 2013, Westpac published and lodged with the ASX its Full Year Financial Results for 2013 \(2013 Financial Results\).](#)
  
- 434. In the 2013 Financial Results, Westpac made the following statements (AML/CTF Compliance Statements):
  - (a) Regulatory Change – Significant capabilities delivered in Second Half 2013 include: – Enhanced process for identification and verification of new customers introduced during Second Half 2013 providing an improved customer experience, whilst satisfying AML/Counter Terrorism Financing (CTF), FATCA and other legal requirements;

#### **Particulars**

- i) FY2013 Financial Results, pp 30.*

435. On 13 November 2013, Westpac published and lodged with the ASX its 2013 Annual Report (**2013 Annual Report**).

436. In the 2013 Annual Report, Westpac made the following statements (**AML/CTF Compliance Statements**):

- (a) Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities;
- (b) Compliance Management Framework – Westpac’s Compliance Management Framework sets out our approach to managing compliance and mitigating compliance risk, in order to achieve our compliance objectives. To proactively manage our compliance risks, we must:
  - (i) comply with both the letter and ‘spirit’ of the law while being attentive to the needs of our clients;
  - (ii) embed the requirements of our regulators into how we do business, how we conduct ourselves and how our systems and processes are designed and operate;
  - (iii) maintain a compliance culture where everyone in every part of the Westpac Group has responsibility for compliance.

The mechanisms we use to implement our approach include:

- (iv) maintaining a strong governance environment;
- (v) identifying obligations, developing and maintaining Compliance Plans and implementing change;
- (vi) developing, implementing and testing compliance controls; and monitoring and reporting incidents, issues and risks.

- (c) As with other forms of risk, business line management is primarily responsible for managing compliance. This is supported by a dedicated Compliance function covering the Group and each area of the business. The Compliance function reports to the Chief Compliance Officer. Regular reports are provided to the Operational Risk & Compliance Committee and the Board Risk Management Committee on the status of compliance across the Group.

### **Particulars**

*i)* 2013 Annual Report, pp 24, 38

#### **D.1.3 2014 Compliance Statements**

- 437. On 12 November 2014, Westpac published and lodged with the ASX its 2014 Annual Report (**2014 Annual Report**).
- 438. In the 2014 Annual Report, Westpac made the following statements (**AML/CTF Compliance Statements**):
  - (a) Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities;
  - (b) Board Risk & Compliance Committee – The Board Risk & Compliance Committee comprises all of Westpac’s independent, Non-executive Directors and is chaired by Elizabeth Bryan ... From the perspective of specific types of risk, the Board Risk & Compliance Committee role includes:
    - (i) compliance risk;
    - (ii) reviewing compliance processes and our compliance with applicable laws, regulations and regulatory requirements, discussing with management and the external auditor any material correspondence with regulators or government agencies and any published reports that raise material issues, and reviewing complaints and whistleblower concerns.

- (c) Compliance Management Framework – Westpac’s Compliance Management Framework sets out our approach to managing compliance and mitigating compliance risk, in order to achieve our compliance objectives. To proactively manage our compliance risks, we must:
- (i) comply with both the letter and ‘spirit’ of the law while being attentive to the needs of our clients;
  - (ii) embed the requirements of our regulators into how we do business, how we conduct ourselves and how our systems and processes are designed and operate;
  - (iii) maintain a compliance culture where everyone in every part of the Westpac Group has responsibility for compliance.

The mechanisms we use to implement our approach include:

- (iv) maintaining a strong governance environment;
  - (v) identifying obligations, developing and maintaining Compliance Plans and implementing change;
  - (vi) developing, implementing and testing compliance controls; and monitoring and reporting incidents, issues and risks;
  - (vii) monitoring and reporting incidents, issues and risks
- (d) As with other forms of risk, business line management is primarily responsible for managing compliance. This is supported by a dedicated Compliance function covering the Group and each area of the business. The Compliance function reports to the Chief Compliance Officer. Regular reports are provided to the Operational Risk & Compliance Committee and the Board Risk Management Committee on the status of compliance across the Group.

### **Particulars**

- i) 2014 Annual Report, pp 23, 35, 38.*

#### **D.1.4 2015 Compliance Statements**

439. On 4 May 2015, Westpac published and lodged with the ASX its 2015 Interim Financial Results (**2015 Interim Financial Results**).
440. In the 2015 Interim Financial Results, Westpac made the following statements (**AML/CTF Compliance Statements**):
- (a) Regulatory change programs reflected commitments to address requirements by Governments and regulators globally. Spend for First Half 2015 of \$108 million included the delivery of initiatives within major programs such as Stronger Super, Financial Claims Scheme, FATCA and AML. In addition to fulfilling compliance requirements, many of these programs were able to implement new functionality and enhanced capabilities including a single view of the customer across all brands.

#### **Particulars**

*i)* 2015 *Interim Financial Results*, p 25.

441. On 2 November 2015, Westpac published and lodged with the ASX its Full Year 2015 Financial Result (**2015 Full Year Financial Results**).
442. In the 2015 Full Year Financial Results, Westpac made the following statements (**AML/CTF Compliance Statement**):
- (a) Regulatory change programs address requirements by Governments and regulators globally. Spend for Second Half 2015 of \$152 million, included the delivery of initiatives across a number of regulations such as Anti Money Laundering, Future of Financial Advice reforms, Financial Claims Scheme and Stronger Super. In addition to fulfilling compliance requirements, many of these programs implemented new functionality and enhanced capabilities.

#### **Particulars**

*i)* 2015 ~~*Interim Financial*~~ *Full Year* *Results*, p ~~25~~ 28.

443. On 11 November 2015, Westpac published and lodged with the ASX its 2015 Annual Report (**2015 Annual Report**).
444. In the 2015 Annual Report, Westpac made the following statements (**AML/CTF Compliance Statements**):
- (a) Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities;
  - (b) The CEO and Executive Team are responsible for implementing our risk management strategy and frameworks, and for developing policies, controls, processes and procedures for identifying and managing risk in all of Westpac’s activities. Westpac adopts a Three Lines of Defence approach to risk management which reflects our culture of ‘risk is everyone’s business’ and that all employees are responsible for identifying and managing risk and operating within the Group’s desired risk profile. Effective risk management enables us to:
    - (i) accurately measure our risk profile and balance risk and reward within our risk appetite, increasing financial growth opportunities and mitigating potential loss or damage;
    - (ii) protect Westpac’s depositors, policyholders and investors by maintaining a strong balance sheet;
    - (iii) embed adequate controls to guard against excessive risk or undue risk concentration; and
    - (iv) meet our regulatory and compliance obligations.

#### **Particulars**

- i) 2015 Annual Report, pp 27, 171.*

#### **D.1.5 2016 Compliance Statements**

445. On 9 November 2016, Westpac published and lodged with the ASX its 2016 Annual Report (**2016 Annual Report**).
446. In the 2016 Annual Report, Westpac made the following statements (**AML/CTF Compliance Statements**):
- (a) Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities;
  - (b) The Group's Operational Risk Management Framework and Compliance Management Framework assists all divisions to achieve their objectives through the effective identification, assessment, measurement, management, monitoring, reporting, control and mitigation of their risks. The Operational Risk Management Framework defines the organisational and governance structures, roles and responsibilities, principles, policies, processes and systems that we use to manage operational risk. The Compliance Management Framework sets out the approach of Westpac Group to managing compliance obligations and mitigating compliance risk, in order to achieve our compliance objective.

#### **Particulars**

*i)* 2016 Annual Report, pp 23, 103

#### **D.1.6 2017 Compliance Statements**

447. On 8 November 2017, Westpac published and lodged with the ASX its 2017 Annual Report (**2017 Annual Report**).
448. In the 2017 Annual Report, Westpac made the following statements (AML/CTF Compliance Statements):

“Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities. Our Anti-Money Laundering and Counter-Terrorism Financing Policy (AML/CTF Policy) sets out how the Westpac Group complies with its legislative obligations. The AML/CTF Policy applies to all business divisions and employees (permanent, temporary and third party providers) working in Australia, New Zealand and overseas.”

#### **Particulars**

*i) 2017 Annual Report, pp 24*

#### **D.1.7 2018 Compliance Statements**

449. On 7 November 2018, Westpac published and lodged with the ASX its 2018 Annual Report (**2018 Annual Report**).

450. In the 2018 Annual Report, Westpac made the following statements (AML/CTF Compliance Statements):

“Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities. Our Anti-Money Laundering and Counter-Terrorism Financing Policy (AML/CTF Policy) sets out how the Westpac Group complies with its legislative obligations. The AML/CTF Policy applies to all business divisions and employees (permanent, temporary and third party providers) working in Australia, New Zealand and overseas.”

#### **Particulars**

*i) 2018 Annual Report, p 30.*

451. In the 2018 Annual Report, Westpac also stated that:

- (a) it had recently self-reported to AUSTRAC a failure to report a large number of IFTIs (as required under the AML/CTF Act) in relation to one WIB product (**WIB IFTI Failures**);
- (b) the IFTIs related to batch instructions received from 2009 until 2018 from a small number of Correspondent Banks for payments made predominantly to beneficiaries in Australia in Australian dollars;
- (c) through the WIB product, Westpac facilitates payments on behalf of clients of certain of its Correspondent Banks, and the majority of the payments are low value and made by Government pension funds and corporates;
- (d) Westpac is investigating and working with AUSTRAC to remediate the failure to report IFTIs; and
- (e) no provision had been raised for this matter including in relation to any potential regulatory action.

#### **Particulars**

*i) 2018 Annual Report, pp 238 241.*

#### **D.1.8 2019 Compliance Statements**

452. On 6 May 2019, Westpac published and lodged with the ASX an announcement entitled 'Westpac 1H19 2019 Interim Financial Results Announcement' (**2019 Interim Results**).
453. In the 2019 Interim Results, Westpac stated:
- (a) Westpac has self-reported to AUSTRAC the WIB IFTI Failures;
  - (b) the majority of the IFTIs concern batch instructions received by Westpac through one WIB product between 2009 and 2018 from a small number of Correspondent Banks for payments made predominantly to beneficiaries living in Australia in Australian dollars;

- (c) through the product, Westpac facilitates payments on behalf of clients of certain of its Correspondent Banks;
- (d) the majority of the payments were low value, recurring and made by Government pension funds and corporates;
- (e) as reported in the 2018 Annual Report, Westpac was continuing to work with AUSTRAC to remediate the WIB IFTI Failures;
- (f) AUSTRAC was investigating this matter and, over the last six months, had issued a number of detailed notices requiring the production of documents and information; and
- (g) no provision had been raised for this matter including in relation to any potential regulatory action.

#### **Particulars**

*i) 2019 Interim Results, pp. 79, 80, and 146.*

- 454. On 4 November 2019, Westpac published and lodged with the ASX its 2019 Annual Report (**2019 Annual Report**).
- 455. In the 2019 Annual Report, Westpac made the following statements (**AML/CTF Compliance Statements**):

“Anti-money laundering regulation and related requirements – Australia – Westpac has a Group-wide program to manage its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act 2006. We continue to actively engage with the regulator, AUSTRAC, on our activities. Our Anti-Money Laundering and Counter-Terrorism Financing Policy (AML/CTF Policy) sets out how the Westpac Group complies with its legislative obligations. The AML/CTF Policy applies to all business divisions and employees (permanent, temporary and third party providers) working in Australia, New Zealand and overseas.”

## Particulars

*i) 2019 Annual Report, p 24.*

456. In the 2019 Annual Report, Westpac also stated that:

- (a) As reported in Westpac's 2018 Annual Report, Westpac self-reported to AUSTRAC the WIB IFTI Failures (as required under the AML/CTF Act);
- (b) Under the AML/CTF Act, the 'sender' financial institution of an IFTI transmitted out of Australia, or the 'recipient' financial institution of an IFTI transmitted into Australia, is required to report the IFTI to AUSTRAC within 10 business days of the instruction being sent or received;
- (c) the majority of the IFTIs which are the subject of Westpac's engagement with AUSTRAC, concern batch instructions received by Westpac through one WIB product between 2009 and 2018 from a small number of Correspondent Banks for payments made predominantly to beneficiaries living in Australia in Australian dollars, on behalf of clients of those correspondent banks. The majority of the payments were low value, recurring and made by foreign government pension funds and corporates;
- (d) AUSTRAC had issued a number of detailed statutory notices over the last year requiring information relating to Westpac's processes, procedures and oversight;
- (e) These notices related to a range of matters including the IFTI reporting failures and associated potential failings related to record keeping and obligations to obtain and pass on certain data in funds transfer instructions, as well as correspondent banking due diligence, risk assessments and transaction monitoring;
- (f) Westpac had not yet received an indication from AUSTRAC about the nature of any enforcement action it may take;
- (g) Westpac was continuing to work with AUSTRAC in relation to these matters; and

- (h) Any enforcement action against Westpac may include civil penalty proceedings and result in the payment of a significant financial penalty, which Westpac is currently unable to reliably estimate. Previous enforcement action by AUSTRAC against other institutions has resulted in a range of outcomes, depending on the nature and severity of the relevant conduct and its consequences.

#### **Particulars**

*ij) 2019 Annual Report, p 15.*

- 457. On 23 October 2019, Westpac published and lodged with the ASX a Release 'Westpac details 2H19 notable items and releases its 2019 Full Year Financial Results Template' (**23 October Release**).
- 458. In the 23 October Release Westpac made the following statements:
  - (a) Westpac had not taken a provision in 2019 full year results for the WIB IFTI Failures, which were reported as a significant development and contingent liability in the 2018 full year results and 2019 interim results;
  - (b) AUSTRAC has issued a number of detailed statutory notices over the last year requiring information relating to Westpac's processes, procedures and oversight, and relate to a range of matters including the WIB IFTI Failures and associated potential failings related to record keeping and obligations to pass on certain data in funds transfer instructions, as well as correspondent banking due diligence, risk assessments and transaction monitoring; and
  - (c) any enforcement action against Westpac may include civil penalty proceedings and result in the payment of a significant financial penalty, which Westpac is currently unable to reliably estimate. Previous enforcement action by AUSTRAC against other institutions has resulted in a range of outcomes, depending on the nature and severity of the relevant conduct and its consequences.

459. Save for the statements pleaded in paragraphs ~~125451~~, ~~127453~~, ~~130456~~, and ~~132458~~ Westpac did not, at any time prior to 20 November 2019 make any statement which corrected, qualified or contradicted the AML/CTF Compliance Statements.

#### **D.1.9 Westpac's AML/CTF Compliance Representations**

460. By the matters pleaded in paragraphs ~~105431~~ to ~~122448~~, between 30 June 2014, 16 December 2013 and 6 November 2018, Westpac represented to the Affected Market throughout the Relevant Period that:

(a) Westpac had in place ~~effective~~ policies, procedures and systems designed to ensure ~~for ensuring~~ compliance by Westpac with relevant regulatory requirements (including the AML/CTF Act);

(b) Westpac was in fact in compliance or in substantial compliance, with AML/CTF requirements ~~and/or~~

~~(c) Westpac's risk management systems had ensured, and would continue to ensure appropriate monitoring and reporting of compliance activities (including compliance with the AML/CTF Act);~~

**(First AML/CTF Compliance Representations).**

#### **Particulars**

*i) The First AML/CTF Compliance Representations are express and to be implied from:*

*A) the AML/CTF Compliance Statements from the dates they were made; and*

*B) the absence of any correction or qualification to the AML/CTF Compliance Statements.*

461. The First AML/CTF Compliance Representations were a continuing representation throughout the Relevant Period until 6 November 2018.

## Particulars

- i) The First AML/CTF Compliance Representations were of their nature likely to be continuing unless and until information was published to the Affected Market information which corrected or qualified them.*

462. By the matters pleaded in paragraphs ~~105431~~ to ~~132458~~, between 7 November 2018 and 19 November 2019, Westpac represented to the Affected Market throughout the Relevant Period that:

- (a) Westpac had in place ~~effective~~ policies, procedures and systems designed to for ensuring compliance by Westpac with relevant regulatory requirements (including the AML/CTF Act);
- (b) ~~to the extent that while~~ Westpac had identified some necessary improvements to its AML/CTF policies, systems and controls together with related remediation work in respect of certain reporting practices, this was due to an environment of ongoing legislative reform, regulatory change and increased industry focus, rather than due to any systemic flaws or deficiencies in Westpac's AML/CTF policies, systems and controls or in its compliance with its AML/CTF obligations; and
- (c) while Westpac had now identified and reported to AUSTRAC the WIB IFTI Failures, other than the WIB IFTI Failures, Westpac was in compliance, or substantial compliance, with its AML/CTF obligations;
- (d) ~~Westpac had publicly disclosed all matters likely to materially impact on the amount of any financial penalty which Westpac was required to pay as a result of these compliance failures [Not Used]~~,

**(Second AML/CTF Compliance Representations).**

## Particulars

- i) The Second AML/CTF Compliance Representations are:*

- A) *express and to be implied from:*

- i) *the AML/CTF Compliance Statements from the dates they were made;*
- ii) *the statements pleaded in paragraphs 451, 453, 456, and 458.*

*B) Implied as a matter of law by operation of sections 297 and 305 of the Corporations Act 2001, and by the Directors' declaration in the 2018 Annual Report and 2019 Annual Report that, in the Directors' opinion, the annual financial statement or interim financial statement (as the case may be) gives a true and fair view of Westpac's financial position as at the final day of the period the subject of that report.*

463. The Second AML/CTF Compliance Representations were a continuing representation throughout the Relevant Period from 7 November 2018.

#### **Particulars**

- i) *The Second AML/CTF Compliance Representations were of their nature likely to be continuing unless and until information was published to the Affected Market which corrected or qualified them.*

#### **D.1.10 Misleading or deceptive conduct**

##### *D.1.10.1 First AML/CTF Compliance Representations*

464. By reason of the matters pleaded in paragraphs ~~59, 71, 76, 79, 81 to 83, 85, 87, 89~~ 61 to 64, 71 to 72, 77 to 80, 108 to 111, 118 to 121, 141 to 152 and/or ~~94~~170 to 173 on and from at least ~~30 June 2014~~16 December 2013, in making the First AML/CTF Compliance Representations, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

465. Further or alternatively, by reason of the matters pleaded in paragraphs 61 to 64, 71 to 72, 77 to 80, 108 to 111, 118 to 121, 141 to 152, and/or 170 to 173 on and from at least 30 June 2014, Westpac did not have reasonable grounds for making the First

AML/CTF Compliance Representations, and therefore engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

466. Further or alternatively, by reason of the matters pleaded in paragraphs ~~59, 71, 76, 79, 81 to 83, 85, 87, 89~~ 61 to 64, 71 to 72, 77 to 80, 108 to 111, 118 to 121, 141 to 152 and/or ~~94-170 to 173~~ on and from at least ~~30 June 2014~~16 December 2013 until 6 November 2018, in maintaining and/or failing to correct or qualify the First AML/CTF Compliance Representations, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
467. The conduct pleaded in paragraphs ~~105~~431 to ~~134~~460, and ~~138~~464, 465, and/or ~~139~~466 (including the making of the First AML/CTF Compliance Representations) was conduct engaged in by Westpac:
- (a) in relation to financial products (being Westpac Securities), within the meaning of subsections 1041H(1) and 1041H(2)(b) of the Corporations Act;
  - (b) in trade or commerce, in relation to financial services within the meaning of section 12DA(1) of the ASIC Act; and
  - (c) in trade or commerce, within the meaning of s 18 of the ACL.
468. By reason of the matters pleaded in paragraphs ~~140, 464 to 139~~ 467, on and from at least ~~30 June 2014~~16 December 2013, Westpac contravened:
- (a) s 1041H of the Corporations Act;
  - (b) s 12DA(1) of the ASIC Act; and/or
  - (c) s 18 of the Australian Consumer Law,
- (each being a **AML/CTF Compliance Misleading Representation Contravention**).
469. By reason of the matters pleaded in paragraphs ~~140 and 466 and 467~~, on and from at least ~~30 June 2014~~30 November 2013, Westpac contravened:
- (a) s 1041H of the Corporations Act;

(b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law,

(each being a **AML/CTF Compliance Misleading Silence Contravention**).

*D.1.10.2 Second AML/CTF Compliance Representations*

470. By reason of:

(a) the matters pleaded in paragraphs ~~59, 71, 76, 79, 81 to 83, 85, 87, 89~~ 61 to 64, 71 to 72, 77 to 80, 108 to 111, 118 to 121, 141 to 152, 170 to 173, 191 to 198 and/or ~~94~~ 215 to 218 on and from 7 November 2018; and/or

(b) the fact that contraventions related to Outgoing IFTI's as well as Incoming IFTI's; and/or

(c) the contraventions were continuing, as Westpac was continuing to accept IFTI's from Bank A which it could not, and did not, report to AUSTRAC,

in making the Second AML/CTF Compliance Representations, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

471. Further or alternatively, by reason of the matters pleaded in paragraphs 61 to 64, 71 to 72, 77 to 80, 108 to 111, 118 to 121, 141 to 152, 170 to 173, 191 to 198 and/or 215 to 218 on and from at least 7 November 2018, Westpac did not have reasonable grounds for making the Second AML/CTF Compliance Representations, and therefore engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

472. Further or alternatively, by reason of the matters pleaded in paragraphs ~~59, 71, 76, 79, 81 to 83, 85, 87, 89~~ 61 to 64, 71 to 72, 77 to 80, 108 to 111, 118 to 121, 141 to 152, 170 to 173, 191 to 198 and/or ~~94~~ 215 to 218 on and from 7 November 2018, in maintaining and/or failing to correct or qualify the Second AML/CTF Compliance Representations, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

473. The conduct pleaded in paragraphs [105431](#) to [132458](#), [462](#), and [143470, 471](#) and/or [144472](#) (including the making of the Second AML/CTF Compliance Representations) was conduct engaged in by Westpac:
- (a) in relation to financial products (being Westpac Securities), within the meaning of subsections 1041H(1) and 1041H(2)(b) of the Corporations Act;
  - (b) in trade or commerce, in relation to financial services within the meaning of section 12DA(1) of the ASIC Act; and
  - (c) in trade or commerce, within the meaning of s 18 of the ACL.
474. By reason of the matters pleaded in paragraphs [470445](#), [471](#) and [143473](#), on and from at least 7 November 2018, Westpac contravened:
- (a) s 1041H of the Corporations Act;
  - (b) s 12DA(1) of the ASIC Act; and/or
  - (c) s 18 of the Australian Consumer Law,
- (each being a **AML/CTF Compliance Misleading Representation Contravention**).
475. By reason of the matters pleaded in paragraphs [145473](#) and [144472](#) on and from at least 7 November 2018, Westpac contravened:
- (a) s 1041H of the Corporations Act;
  - (b) s 12DA(1) of the ASIC Act; and/or
  - (c) s 18 of the Australian Consumer Law,
- (each being a **AML/CTF Compliance Misleading Silence Contravention**).
476. On or around 4 November 2018, in a conference call with analysts and investors to discuss Westpac's results for the financial year ended 30 June 2018, Mr Hartzler said in response to a question regarding a contingent liability relating to a matter self-reported to AUSTRAC:

“And on the contingent liability. So the AML issue that we talked about is not a suspicious matter reporting issue, like one of our colleague banks dealt with. It relates to something called an IFTI which is an inward transaction in Australian dollars to an Australian payee that we process on behalf of correspondent banks. And we're required to disclose those payments to AUSTRAC. We found in going through our checks that there were a couple of banks for whom those files for some reason weren't passed. The composition of those files is pretty low value payments. They relate to things like pensions from foreign governments that are being paid to Australian residents. So we're still working through that with AUSTRAC, but that's what it is”.

(the Earnings Call Statement).

#### Particulars

*i) The Earnings Call Statement was made orally and recorded in a transcript dated 4 November 2018 at page 7. A copy of the transcript will be discovered by the Applicant and served on the Respondent.*

477. By making the statements in paragraph 451 above and the Earnings Call Statement, Westpac represented to the Affected Market that the WIB IFTI Failures:

- (a) did not give rise to any significant ML/TF risk; and/or
- (b) were less serious than the matters giving rise to the AUSTRAC CBA Proceedings.

(the WIB IFTI Misrepresentation).

#### Particulars

*i) The WIB IFTI Misrepresentation is implied by the matters stated in paragraph 451 and the Earnings Call Statement.*

478. The WIB IFTI Misrepresentation was a continuing representation throughout the Relevant Period from the time it was made.

479. By reason of the matters pleaded in paragraphs 61 to 64, 69 to 73, 90 to 91, 108 to 111, 118 to 121, 141 to 146, 151 to 152, 170 to 173, 191 to 198 and/or 215 to 218, together or in any combination, in making the WIB IFTI Misrepresentation, on and from the time it was made, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

**Particulars**

The matters pleaded in paragraphs 61 to 64, 69 to 73, 90 to 91, 108 to 111, 118 to 121, 141 to 146, 151 to 152, 170 to 173, 191 to 198 and/or 215 to 218 comprised information that existed at the time of the WIB IFTI Misrepresentation, that was not generally available, and that a reasonable person would expect to have a material effect on the price or value of Westpac Shares, as alleged in paragraphs 223, 227, 231, 235, 239, 243, 263, 267, 271, 275, 279, 283, 287, 291, 295, 299, 303, 307, 311, 315, 319, 323, 327, 331, 335, 339, 343, 347, 351, 355, 359, 363, 367, 371, 375, 379, 383, 387, 391, 395, 399, 403, 407, 411, 415, 419, 423, 427.

480. Further or alternatively, in making the WIB IFTI Misrepresentation, on and from the time it was made, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive because:

(a) The WIB IFTI Misrepresentation omitted the facts that:

- (i) Westpac had engaged in approximately 200,000 to 300,000 contraventions of ss 45(1)(a)(i)–(ii) and (2) of the AML/CTF Act per month as a result of the WIB IFTI Failures;

**Particulars**

*j)* The matters alleged at paragraph 63, 64, 110, 111, 151, 152, 197 and 198 above.

- (i) alternatively, from around 30 June 2014, Westpac had discovered that it:
- (A) there was inadequate end-to-end understanding, documentation and monitoring over the International Funds Transfer Instructions

reporting process. As a result, there was no organisational view of the risks to such reporting or a full understanding of the impact of changes, which may result in non-compliance;

- (B) there was no data reconciliation in place within Detica to validate the completeness of payment records processed. Any incomplete data processing may not have been detected;
- (C) more work was required to be taken to resolve a number of long outstanding data issues that impact Westpac's ability to comply with the International Funds Transfer Instruction reporting requirements; and
- (D) the potential impact of each of the aforementioned issues was the potential for non-compliance with the International Funds Transfer Instructions reporting requirements, resulting in regulator intervention and fines.

#### **Particulars**

- i) The matters alleged at paragraph 59 above.*
- (ii) alternatively, from around 31 August 2017, Westpac had discovered that it:
  - (A) was not reporting to AUSTRAC IFTIs received from SCB; and
  - (B) was not reporting to AUSTRAC IFTIs received from Citibank,

#### **Particulars**

- i) The matters alleged at paragraphs 102 to 107 above.*
- (iii) alternatively, by 31 May 2018, Westpac had discovered that:
  - (A) Westpac was contravening, and had contravened over a significant period, its obligation to report international funds transfer instructions under the AML/CTF Act in respect of Citibank with the

number of contraventions being in the amount of around 470,000 per month;

- (B) Westpac was contravening, and had contravened over a significant period, its obligation to report international funds transfer instructions under the AML/CTF Act in respect of SCB with the number of contraventions being in the amount of around 1,000 per month;

**Particulars**

- i) The matters alleged at paragraphs 133, 135, and 136 above.*
- (iv) alternatively, by 15 August 2018, Westpac had discovered that it had contravened its obligation to report IFTIs under the AML/CTF Act millions of times over a period of 9 years.

**Particulars**

- i) The matters alleged at paragraphs 165 to 170 above.*
- (v) alternatively, by 28 November 2018, Westpac had discovered that it had contravened its obligation to report IFTIs under the AML/CTF Act approximately 26.6 million times between September 2011 and July 2018.

**Particulars**

- ii) The matters alleged at paragraphs 185, 186, and 189 above.*
- (vi) each contravention of the Act carried a maximum penalty ranging from \$11,000,000 to \$21,000,000 depending on when the breach occurred; and

**Particulars**

- i) The matters alleged at paragraph 29(a) above.*

- (vii) Westpac did not discover the WIB IFTI Failures as a result of a routine check of its systems, but rather because of the risk of potential penalties in light of the CBA Penalty Proceeding;

**Particulars**

- i) WCA.3001.0029.8675 at 8682.
- ii) WPC.0005.0007.0001 at 0022-24.
- iii) WPC.0005.0009.0001 at 0010-11.

481. Further or alternatively, by reason of the matters pleaded in paragraphs 61 to 64, 69 to 73, 90 to 91, 108 to 111, 118 to 121, 141 to 152, 170 to 173, 191 to 198 and/or 215 to 218, on and from the time it was made, in maintaining and/or failing to correct or qualify the WIB IFTI Misrepresentation, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.
482. The WIB IFTI Misrepresentation was conduct engaged in by Westpac:
- (a) in relation to financial products (being Westpac Securities), within the meaning of subsections 1041H(1) and 1041H(2)(b) of the Corporations Act;
  - (b) in trade or commerce, in relation to financial services within the meaning of section 12DA(1) of the ASIC Act; and
  - (c) in trade or commerce, within the meaning of s 18 of the ACL.
483. By reason of the matters pleaded in paragraphs 479 to 482, Westpac contravened:
- (a) s 1041H of the Corporations Act;
  - (b) s 12DA(1) of the ASIC Act; and/or
  - (c) s 18 of the Australian Consumer Law,
- (the WIB IFTI Misrepresentation Contravention).

## D.2 Westpac's statements about continuous disclosure

### D.2.1 Market Disclosure Policy

484. At all material times in the Relevant Period, Westpac published on its website a "Westpac Banking Corporation Market Disclosure Policy" (**Market Disclosure Policy**).

#### Particulars

*i)* [https://www.westpac.com.au/content/dam/public/wbc/documents/pdf/aw/Market\\_disclosure\\_policy.pdf](https://www.westpac.com.au/content/dam/public/wbc/documents/pdf/aw/Market_disclosure_policy.pdf)

485. In the Market Disclosure Policy, Westpac stated that:

- (a) it would make public disclosures of any information that a reasonable person would expect to have a material effect on the price or value of Westpac Securities unless an exception applies under the ASX Listing Rules or other applicable regulatory requirements;
- (b) it was committed to making this disclosure immediately consistent with ASX Listing Rule 3.1, and the ASX's guidance on the meaning of "immediately" in this context is that it means promptly and without delay,

(**Continuous Disclosure Statements**).

### D.2.2 2013 Continuous Disclosure Statements

486. In the 2013 Annual Report, Westpac made the following statements (**2013 Continuous Disclosure Statements**):

- (a) We maintain a level of disclosure that seeks to provide all investors with equal, timely, balanced and meaningful information. Consistent with these standards the Westpac Group maintains a Board approved Market Disclosure Policy, which governs how we communicate with our shareholders and the investment community.

- (b) The policy reflects the requirements of the ASX, NZX and other offshore stock exchanges where we have disclosure obligations, as well as relevant securities and corporations legislation. Under our policy, information that a reasonable person would expect to have a material effect on the price or value of our securities must first be disclosed via the ASX unless an exception applies under regulatory requirements.
- (c) Our Disclosure Committee is responsible for determining what information should be disclosed publicly under the policy, and for assisting employees in understanding what information may require disclosure to the market on the basis that it is price sensitive. The Disclosure Committee is comprised of the CEO, the Executive Team, the Group General Counsel and the General Manager, Corporate Affairs and Sustainability.
- (d) The Chief Operating Officer is the Disclosure Officer. The Disclosure Officer is ultimately responsible for all communication with relevant stock exchanges and notifying regulators in any jurisdiction as a result of market disclosure.
- (e) Once relevant information is disclosed to the market and available to investors, it is also published on our website.

#### **Particulars**

*i) 2013 Annual Report, p. 35*

#### **D.2.3 2014 Continuous Disclosure Statements**

487. In the 2014 Annual Report, Westpac made the following statements (**2014 Continuous Disclosure Statements**):

- (a) We maintain a level of disclosure that seeks to provide all investors with equal, timely, balanced and meaningful information. Consistent with these standards the Westpac Group maintains a Board approved Market Disclosure Policy, which governs how we communicate with our shareholders and the investment community.

- (b) The policy reflects the requirements of the ASX, NZX and other offshore stock exchanges where we have disclosure obligations, as well as relevant securities and corporations legislation. Under our policy, information that a reasonable person would expect to have a material effect on the price or value of our securities must first be disclosed via the ASX unless an exception applies under regulatory requirements.
- (c) Our Disclosure Committee is responsible for determining what information should be disclosed publicly under the policy, and for assisting employees in understanding what information may require disclosure to the market on the basis that it is price sensitive. The Disclosure Committee is comprised of the CEO, the Executive Team, the Chief Compliance Officer & Group General Counsel and the General Manager, Corporate Affairs and Sustainability.
- (d) The Chief Operating Officer is the Disclosure Officer. The Disclosure Officer is ultimately responsible for all communication with relevant stock exchanges and notifying regulators in any jurisdiction as a result of market disclosure.
- (e) Once relevant information is disclosed to the market and available to investors, it is also published on our website. This includes investor discussion packs, presentations on and explanations about our financial results. Our website information also includes Annual Review and Sustainability Reports, Annual Reports, results announcements, CEO and executive briefings (including webcasts, recordings or transcripts of all major events), notices of meetings and key media releases.

### Particulars

*j 2014 Annual Report, p. 34*

#### **D.2.4 2015 Continuous Disclosure Statements**

488. On 2 July 2015, Westpac published and lodged with the ASX an announcement entitled “Shares issued under the Dividend Reinvestment Plan Underwriting Agreement - Notice under section 708A(5)(e) of the Corporations Act 2001 (Cth)” (July 2015 Cleansing Notice).

489. By the July 2015 Cleansing Notice, Westpac stated, among other things, that:

(a) as at the date of the notice, Westpac had complied with:

(i) the provisions of Chapter 2M of the Corporations Act as they apply to Westpac; and

(ii) section 674 of the Corporations Act; and

(b) as at the date of the notice, there was no 'excluded information' of the type referred to in sections 708A(7) and 708A(8) of the Corporations Act,

**(July 2015 Continuous Disclosure Statements).**

490. On 14 October 2015, Westpac published and lodged with the ASX an announcement entitled "Notice under section 708AA(2)(f) of the Corporations Act 2001 (Cth) as modified by ASIC Class Order 08/35" (October 2015 Cleansing Notice).

491. By the October 2015 Cleansing Notice, Westpac stated, among other things, that:

(c) as at the date of the notice, Westpac had complied with:

(i) the provisions of Chapter 2M of the Corporations Act as they apply to Westpac; and

(ii) section 674 of the Corporations Act; and

(d) as at the date of the notice, there was no 'excluded information' of the type referred to in sections 708AA(8) and 708AA(9) of the Corporations Act, as modified by the Class Order that is required to be set out in the notice under section 708AA(7) of the Act,

**(October 2015 Continuous Disclosure Statements).**

### **D.2.5 Cleansing Notice**

492. On 4 November 2019, Westpac published and lodged with the ASX an announcement entitled 'Westpac Launches \$2.5 billion capital raising' (**Westpac 4 November Announcements**).
493. By the Westpac 4 November Announcement, Westpac announced it:
- (a) had launched a capital raising, comprising:
    - (i) a fully underwritten \$2 billion institutional share placement (**Placement**); and
    - (ii) a non-underwritten share purchase plan under which Westpac targeted to raise approximately \$500 million (**SPP**),
  - (b) The Placement would be undertaken at a fixed price of \$25.32 per new share (**Placement Price**), representing a:
    - (i) 6.5% discount to the adjusted last close price on ASX of \$27.08 on 1 November 2019; and
    - (ii) 8.1% discount to the adjusted five-day VWAP on ASX of \$27.56 to the close of trade on 1 November 2019.
  - (c) The Placement would result in approximately 79 million new shares being issued, representing approximately 2.3% of Westpac's existing issued capital.
  - (d) Under the SPP, each eligible Westpac shareholder would have the opportunity to apply for up to \$30,000 of new fully paid Westpac Shares without incurring brokerage or transaction costs.
  - (e) The issue price per Westpac Share issued pursuant to the SPP would be the lesser of:
    - (i) the Placement Price; and

- (ii) the VWAP of Westpac shares traded on the ASX during the five trading days up to, and including, the SPP closing date (expected to be 2 December 2019), less a 2% discount, rounded to the nearest cent.
- 494. On 8 November 2019, Westpac published and lodged with the ASX an announcement entitled 'Cleansing Notice' under s 708A(5)(e) of the Corporations Act (**Cleansing Notice**).
- 495. By the Cleansing Notice, Westpac stated, among other things (**2019 Continuous Disclosure Statements**):
  - (a) as at the date of the notice, Westpac had complied with:
    - (i) the provisions of Chapter 2M of the Corporations Act as they apply to Westpac; and
    - (ii) section 674 of the Corporations Act; and
  - (b) as at the date of the notice, there was no 'excluded information' of the type referred to in sections 708A(7) and 708A(8) of the Corporations Act that is required to be set out in the notice under section 708A(6)(e) of the Corporations Act.
- 496. Westpac did not, at any time prior to 20 November 2019 make any statement which corrected, qualified or contradicted the 2013, 2014, July 2015, October 2015 and 2019 Continuous Disclosure Statements.

#### ***D.2.6 Westpac Continuous Disclosure Compliance Representation***

- 497. By the matters pleaded in paragraphs 148484 to 156496, Westpac continuously represented to the Affected Market throughout the Relevant Period that:
  - (a) it had policies, procedures and systems in place to ensure that material matters were reported to its CEO and then notified to the ASX, and

- (b) it had complied with, and would continue to comply with, its Continuous Disclosure Obligations (**Continuous Disclosure Compliance Representation**).

#### **Particulars**

- i) The Continuous Disclosure Compliance Representation was partly express and partly implied.*
- ii) To the extent it was express, the Applicant refers to the statements in the July 2015 Cleansing Notice pleaded in paragraph 488, the October 2015 Cleansing Notice pleaded in paragraph 490, and the Cleansing Notice pleaded in paragraph 495495 above;*
- iii) To the extent it was implied, it is to be implied from:*
  - A) at all times, Westpac's listing on the ASX which required adherence to ASX Listing Rule 3.1,*
  - B) the statements in the July 2015 Cleansing Notice pleaded in paragraph 488, the October 2015 Cleansing Notice pleaded in paragraph 490, and the Cleansing Notice pleaded in paragraph 495495 above, from the date they were made;*
  - C) the Continuous Disclosure Statements from the dates they were made; and*
  - D) the absence of any correction or qualification to the statements referred to in (B) to (C) above.*

498. The Continuous Disclosure Compliance Representation was a continuing representation throughout the Relevant Period.

#### **Particulars**

- i) The Continuous Compliance Disclosure Representation was of its nature likely to be continuing unless and until information was*

*published to the Affected Market information which corrected or qualified them.*

**D.2.7 Misleading or deceptive conduct**

499. The conduct pleaded in paragraphs [448484](#) to [158498](#) (including the making of the Continuous Disclosure Compliance Representation) was conduct engaged in by Westpac:

- (a) in relation to financial products (being Westpac Securities), within the meaning of ss 1041H(1) and 1041H(2)(b) of the Corporations Act;
- (b) in trade or commerce, in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
- (c) in trade or commerce, within the meaning of s 18 of the Australian Consumer Law.

500. By reason of the matters pleaded in:

- (a) paragraphs [8761](#) and [93223](#) to [96226](#);
- (b) paragraphs [8962](#) and [97227](#) to [100230](#);
- (c) paragraphs [70M63](#) and [104E231](#) to [104H234](#);
- (d) paragraphs [70Y64](#) and [104I235](#) to [104L238](#);
- (e) paragraphs [70GG71](#) and [104M239](#) to [104P242](#);
- (f) paragraphs [7172](#) and [104Q243](#) to [104T246](#);
- (g) [paragraphs 77 and 247 to 250](#);
- (h) [paragraphs 78 and 251 to 254](#);
- (i) [paragraphs 79 and 255 to 258](#);
- (j) [paragraphs 80 and 259 to 262](#);

- (k) paragraphs 90 and 263 to 266;
- (l) paragraphs 91 and 267 to 270;
- (m) paragraphs 92 and 271 to 274;
- (n) paragraphs 93 and 275 to 278;
- (o) paragraphs 94 and 279 to 282;
- (p) paragraphs 95 and 283 to 286;
- (q) paragraphs 108 and 287 to 290;
- (r) paragraphs 109 and 291 to 294;
- (s) paragraphs 110 and 295 to 298;
- (t) paragraphs 111 and 299 to 302;
- (u) paragraphs 118 and 303 to 306;
- (v) paragraphs 119 and 307 to 310;
- (w) paragraphs 120 and 311 to 314;
- (x) paragraphs 121 and 315 to 318;
- (y) paragraphs 141 and 319 to 322;
- (z) paragraphs 142 and 323 to 326;
- (aa) paragraphs 143 and 327 to 330;
- (bb) paragraphs 144 and 331 to 334;
- (cc) paragraphs 145 and 335 to 338;
- (dd) paragraphs 146 and 339 to 342;
- (ee) paragraphs 147 and 343 to 346;

- (ff) paragraphs 148 and 347 to 350;
- (gg) paragraphs 149 and 351 to 354;
- (hh) paragraphs 150 and 355 to 358;
- (ii) paragraphs 151 and 359 to 362;
- (jj) paragraphs 152 and 363 to 366;
- (kk) paragraphs 170 and 367 to 370;
- (ll) paragraphs 171 and 371 to 374;
- (mm) paragraphs 172 and 375 to 378;
- (nn) paragraphs 173 and 379 to 382;
- (oo) paragraphs 191 and 383 to 386;
- (pp) paragraphs 192 and 387 to 390;
- (qq) paragraphs 193 and 391 to 394;
- (rr) paragraphs 194 and 395 to 398;
- (ss) paragraphs 195 and 399 to 402;
- (tt) paragraphs 196 and 403 to 406;
- (uu) paragraphs 197 and 407 to 410;
- (vv) paragraphs 198 and 411 to 414;
- (ww) paragraphs 215 and 415 to 418;
- (xx) paragraphs 216 and 419 to 422;
- (yy) paragraphs 217 and 423 to 426;
- (zz) paragraphs 218 and 427 to 430;

on and from ~~16 December 2013~~30 June 2014, in making, maintaining and/or failing to correct or qualify the ~~Systemic Failures Information, the Child Exploitation Information, and/or the Potential Penalty Information~~ Continuous Disclosure Compliance Representation, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

501. Further or alternatively, by reason of the matters referred to in paragraph 500 subparagraphs 500(a) to (zz), Westpac did not have reasonable grounds for making the Continuous Disclosure Compliance Representation, and therefore, by making the Continuous Disclosure Compliance Representation, Westpac engaged in conduct which was misleading or deceptive, or likely to mislead or deceive.

502. By reason of the matters pleaded in paragraphs ~~159~~499, and ~~160~~500 and/or 501, on and from ~~16 December 2013~~30 June 2014, Westpac contravened:

- (a) s 1041H of the Corporations Act;
- (b) s 12DA(1) of the ASIC Act; and/or
- (c) s 18 of the Australian Consumer Law,

(each such contravention of such provisions being a **Continuous Disclosure Compliance Misleading Conduct Contravention**).

#### ***D.2.8 Defective Cleansing Notices***

503. Further or alternatively, by reason of the fact that the July 2015 Cleansing Notice did not contain the:

- (a) 30 June 2014 Risk of IFTI Non-Compliance Information;
- (b) 30 June 2014 Risk of IFTI Non-Compliance and Loss Information;
- (e) 30 June 2014 IFTI Reporting Failures Information;
- (f) 30 June 2014 IFTI Reporting Failures and Loss Information;
- (g) 27 January 2015 Risk of Systemic Non-Compliance Information; and/or

(h) 27 January 2015 Risk of Systemic Non-Compliance and Loss Information,

the July 2015 Cleansing Notice:

(i) was false or misleading in a material particular; and/or

(j) had omitted from it a matter or thing, the omission of which rendered the notice misleading in a material respect.

504. By reason of the matters set out in paragraph 503 above, the July 2015 Cleansing Notice was defective within the meaning of s 708A(10) of the Corporations Act.

505. Westpac was or became aware of the defects in the July 2015 Cleansing Notice within 12 months after the securities were issued under the Placement, but did not, within a reasonable time after becoming aware of the defects, give the ASX a notice that set out the information necessary to correct the defects.

#### **Particulars**

*The Applicant refers to and repeats paragraphs 65 to 68, and 73 to 74.*

506. By reason of the matters set out in paragraphs 504 and 505 above, Westpac contravened ss 708A(6) and (9) of the Corporations Act (**July 2015 Cleansing Notice Contravention**).

507. Further or alternatively, by reason of the fact that the October 2015 Cleansing Notice did not contain the:

(a) 30 June 2014 Risk of IFTI Non-Compliance Information;

(b) 30 June 2014 Risk of IFTI Non-Compliance and Loss Information;

(c) 30 June 2014 IFTI Reporting Failures Information;

(d) 30 June 2014 IFTI Reporting Failures and Loss Information;

(e) 27 January 2015 Risk of Systemic Non-Compliance Information;

(f) 27 January 2015 Risk of Systemic Non-Compliance and Loss Information.

- (g) 15 July 2015 Risk of IFTI Non-Compliance Information;
- (h) 15 July 2015 Risk of IFTI Non-Compliance and Loss Information;
- (i) 15 July 2015 IFTI Reporting Failures Information; and/or
- (j) 15 July 2015 IFTI Reporting Failures and Loss Information.

the October 2015 Cleansing Notice:

- (k) was false or misleading in a material particular; and/or
- (l) had omitted from it a matter or thing, the omission of which rendered the notice misleading in a material respect.

508. By reason of the matters set out in paragraph 507 above, the October 2015 Cleansing Notice was defective within the meaning of s 708AA(11) of the Corporations Act.
509. Westpac was or became aware of the defects in the October 2015 Cleansing Notice within 12 months after the securities were issued under the Placement, but did not, within a reasonable time after becoming aware of the defects, give the ASX a notice that set out the information necessary to correct the defects.

### **Particulars**

The Applicant refers to and repeats paragraphs 65 to 68, and 73 to 74.

510. By reason of the matters set out in paragraphs 508 and 509 above, Westpac contravened ss 708AA(7) and (10) of the Corporations Act (**October 2015 Cleansing Notice Contravention**).
511. Further or alternatively, by reason of the fact that the Cleansing Notice did not contain the:
- (a) 30 June 2014 Risk of IFTI Non-Compliance Information and/or 15 July 2015 Risk of IFTI Non-Compliance Information; and/or
  - (b) 30 June 2014 Risk of IFTI Non-Compliance and Loss Information and/or 15 July 2015 Risk of IFTI Non-Compliance and Loss Information; and/or

- (c) 27 January 2015 Risk of Systemic Non-Compliance Information, 1 December 2016 Risk of Systemic Non-Compliance Information and/or 31 May 2018 Risk of Systemic Non-Compliance Information; and/or
- (d) 27 January 2015 Risk of Systemic Non-Compliance and Loss Information, 1 December 2016 Risk of Systemic Non-Compliance and Loss Information and/or 31 May 2018 Risk of Systemic Non-Compliance and Loss Information; and/or
- (e) 30 June 2014 IFTI Reporting Failures Information, 15 July 2015 IFTI Reporting Failures Information, 1 December 2016 IFTI Reporting Failures Information, 31 August 2017 IFTI Reporting Failures Information, 31 May 2018 IFTI Reporting Failures Information, 15 August 2018 IFTI Reporting Failures Information and/or 28 November IFTI Reporting Failures Information; and/or
- (f) 30 June 2014 IFTI Reporting Failures and Loss Information, 15 July 2015 IFTI Reporting Failures and Loss Information, 1 December 2016 IFTI Reporting Failures and Loss Information, 31 August 2017 IFTI Reporting Failures and Loss Information, 31 May 2018 IFTI Reporting Failures and Loss Information, 15 August 2018 IFTI Reporting Failures and Loss Information and/or 28 November IFTI Reporting Failures and Loss Information; and/or
- (g) 1 December 2016 Failure to Monitor for Child Exploitation Information and/or 31 May 2018 Failure to Monitor for Child Exploitation Information; and/or
- (h) 1 December 2016 Failure to Monitor for Child Exploitation and Loss Information and/or 31 May 2018 Failure to Monitor for Child Exploitation and Loss Information; and/or
- (i) 1 December 2016 Risk of Failure to Monitor for Child Exploitation Information and/or 31 May 2018 Failure to Monitor for Child Exploitation Information; and/or
- (j) 1 December 2016 Risk of Failure to Monitor for Child Exploitation and Loss Information and/or 31 May 2018 Risk of Failure to Monitor for Child Exploitation and Loss Information; and/or

- (k) 30 September 2017 Systemic Non-Compliance Information, 31 May 2018 Systemic Non-Compliance Information, 28 November 2018 Systemic Non-Compliance Information and/or 18 April 2019 Systemic Non-Compliance Information; and/or
- (l) 30 September 2017 Systemic Non-Compliance and Loss Information, 31 May 2018 Systemic Non-Compliance and Loss Information, 28 November 2018 Systemic Non-Compliance and Loss Information and/or 18 April 2019 Systemic Non-Compliance and Loss Information; and/or
- (m) 30 September 2017 Risk of Systemic Non-Compliance Information, 28 November 2018 Risk of Systemic Non-Compliance Information and/or 18 April 2019 Risk of Systemic Non-Compliance Information; and/or
- (n) 30 September 2017 Risk of Systemic Non-Compliance and Loss Information, 28 November 2018 Risk of Systemic Non-Compliance and Loss Information, and/or 18 April 2019 Risk of Systemic Non-Compliance; and/or
- (o) 31 August 2017 IFTI Non-Compliance Information; 31 May 2018 IFTI Non-Compliance Information, 15 August 2018 IFTI Non-Compliance Information and/or 28 November 2018 IFTI Non-Compliance Information; and/or
- (p) 31 August 2017 IFTI Non-Compliance and Loss Information 31 May 2018 IFTI Non-Compliance and Loss Information, 15 August IFTI Non-Compliance and Loss Information and/or 28 November 2018 IFTI Non-Compliance and Loss Information.
- ~~(q) Systemic Failures Information;~~
- ~~(r) Child Exploitation Information; and/or~~
- ~~(s) Potential Penalty Information;~~

the Cleansing Notice:

- (t) was false or misleading in a material particular; and/or

- (u) had omitted from it a matter or thing, the omission of which rendered the notice misleading in a material respect.
512. By reason of the matters set out in paragraph [462511](#) above, the Cleansing Notice was defective within the meaning of s 708A(10) of the Corporations Act.
513. Westpac was or became aware of the defects in the Cleansing Notice within 12 months after the securities were issued under the Placement, but did not, within a reasonable time after becoming aware of the defects, give the ASX a notice that set out the information necessary to correct the defects.

#### Particulars

- i) The Applicant refers to and repeat paragraphs The Applicant refers to and repeats paragraphs to 72 .*
- ii) Under the Placement, Westpac Shares were placed by Westpac with investors on 4 and 5 November 2019, with shares issued and available for trading on 8 November 2019.*
514. By reason of the matters set out in paragraphs [463512](#) and [464513](#) above, Westpac contravened ss 708A(6) and (9) of the Corporations Act (**Cleansing Notice Contravention**).

### E. THE 20 NOVEMBER 2019 DISCLOSURES AND DISCLOSURES IMPACT

#### E.1 The 20 November 2019 Announcements

515. On 20 November 2019, AUSTRAC published a media release entitled “AUSTRAC applies for civil penalty orders against Westpac” (**AUSTRAC 20 November Statement**).

#### Particulars

- i) The media release is to be found at <https://www.austrac.gov.au/about-us/media-release/civil-penalty-orders-against-westpac>*

516. The AUSTRAC 20 November Statement, inter alia, stated that:

- (a) AUSTRAC had that day initiated civil penalty proceedings in the Federal Court against Westpac for civil penalty orders against Westpac (**AUSTRAC Proceeding**);
- (b) The civil penalty orders relate to systemic non-compliance with the AML/CTF Act);
- (c) AUSTRAC alleges Westpac contravened the AML/CTF Act on over 23 million occasions;
- (d) AUSTRAC Chief Executive Officer, Nicole Rose, says that AUSTRAC's decision to commence civil penalty proceedings was made following a detailed investigation into Westpac's non-compliance;
- (e) AUSTRAC alleged that Westpac's oversight of the banking and designated services provided through its Correspondent Banking Relationships was deficient. Westpac's oversight of its AML/CTF Program, intended to identify, mitigate and manage the money laundering and terrorism financing risks of its designated services, was also deficient. These failures in oversight resulted in serious and systemic non-compliance with the AML/CTF Act;
- (f) Westpac failed to:
  - (i) appropriately assess and monitor the ongoing money laundering and terrorism financing risks associated with the movement of money into and out of Australia through Correspondent Banking Relationships. Westpac has allowed correspondent banks to access its banking environment and the Australian Payments System without conducting appropriate due diligence on those correspondent banks and without appropriate risk assessments and controls on the products and channels offered as part of that relationship.
  - (ii) report over 19.5 million International Funds Transfer Instructions (IFTIs) to AUSTRAC over nearly five years for transfers both into and out of

Australia. The late incoming IFTIs received from four correspondent banks alone represent over 72% of all incoming IFTIs received by Westpac in the period November 2013 to September 2018 and amounts to over \$11 billion dollars. IFTIs are a key source of information from the financial services sector that provides vital information into AUSTRAC's financial intelligence to protect Australia's financial system and the community from harm.

- (iii) pass on information about the source of funds to other banks in the transfer chain. This conduct deprived the other banks of information they needed to understand the source of funds to manage their own AML/CTF risks.
- (iv) keep records relating to the origin of some of these international funds transfers.
- (v) carry out appropriate customer due diligence on transactions to the Philippines and South East Asia that have known financial indicators relating to potential child exploitation risks. Westpac failed to introduce appropriate detection scenarios to detect known child exploitation typologies, consistent with AUSTRAC guidance and their own risk assessments.

517. The AUSTRAC 20 November Statement contained a link to a Concise Statement filed in the Federal Court in the AUSTRAC Proceeding (**Concise Statement**), and a link to the Statement of Claim filed in the Federal Court in the AUSTRAC Proceeding (that is, the AUSTRAC SOC):

- (a) which stated, inter alia, that Westpac contravened the AML/CTF Act on over 23 million occasions as a result of systemic failures in its control environment, indifference by senior management and inadequate oversight by the Board; and
- (b) the allegations and particulars thereto are otherwise repeated.

518. On 20 November 2019 at about 9.28am, Westpac published and lodged to the ASX an announcement entitled “*Westpac acknowledges civil proceedings by AUSTRAC*” (**First Westpac 20 November Statement**).
519. By the First Westpac 20 November Statement, Westpac stated:
- (a) Westpac Group has this morning received a statement of claim from AUSTRAC, commencing civil proceedings in relation to the alleged contraventions of Westpac’s obligations under the Anti-Money Laundering and Counter-Terrorism Financing Act.
  - (b) Westpac is currently reviewing AUSTRAC’s statement of claim and will issue a further statement to the ASX once it has been assessed.
520. On 20 November 2019 at about 12:17pm, Westpac published and lodged to the ASX an announcement entitled “*Westpac responds to AUSTRAC’s Statement of Claim*” (**Second Westpac 20 November Statement**).
521. By the Second Westpac 20 November Statement, Westpac stated:
- (a) Westpac Group acknowledges the civil proceedings commenced by AUSTRAC today in relation to alleged contraventions of its obligations under the Anti-Money Laundering and Counter- Terrorism Financing Act.
  - (b) The civil proceedings relate to these issues and allege failings in relation to correspondent banking, risk assessments, customer due diligence, transaction monitoring, record keeping and the passing on of certain data in funds transfer instructions.
  - (c) Westpac Group’s Chief Executive Officer, Brian Hartzler said: “We recognise these are very serious and important issues. We are committed to assisting AUSTRAC and law enforcement agencies to stop financial crime.
  - (d) “These issues should never have occurred and should have been identified and rectified sooner. It is disappointing that we have not met our own standards as well as regulatory expectations and requirements.

- (e) “As part of this we are also taking very seriously AUSTRAC’s concerns around appropriate customer due diligence on transactions to the Philippines and South East Asia, including reviewing relevant processes.
522. On 22 November 2019 at about 3.46pm, Westpac published and lodged to the ASX an announcement entitled “*Westpac Board unreservedly apologises*” (**Westpac 22 November Statement**).
523. By the Westpac 22 November Statement, Westpac stated:
- (a) The Westpac Board of Directors today met to further discuss the issues raised by AUSTRAC in its statement of claim and the urgent response plan which has commenced.
  - (b) Westpac’s Chairman, Lindsay Maxsted, said:
    - (i) “As a Board, and as individuals, we are devastated by the issues raised by AUSTRAC in its recent statement of claim”.
    - (ii) “The notion that any child has been hurt as a result of any failings by Westpac is deeply distressing and we are truly sorry. The Board unreservedly apologises”.
    - (iii) “Our Board, CEO, and management team are fully committed to fixing these issues and we are taking all steps necessary to urgently close any remaining gaps and fix our policies and procedures so that this can never happen again”.

## **E.2 The price impact of the 20 and 22 November 2019 disclosures**

524. Following the publication of the 20 November AUSTRAC Statement, Concise Statement, AUSTRAC SOC, First Westpac 20 November Statement, Second Westpac 20 November Statement, and Westpac 22 November Statement, the price of Westpac Shares and Westpac ADRs declined substantially.

## Particulars

- i) In relation to Westpac Shares traded on the ASX:*
- A) On 20 November 2019, the price of Westpac Shares declined by \$0.88 (3.31%) from \$26.55 to \$25.67.*
  - B) On 21 November 2019, the price of Westpac Shares declined by \$0.51 (1.99%) from \$25.67 to \$25.16.*
  - C) On 22 November 2019, the price of Westpac Shares declined by \$0.39 (1.55%) from \$25.16 to \$24.77.*
  - D) On 25 November 2019, the price of Westpac Shares declined by \$0.33 (1.33%) from \$24.77 to \$24.44.*
- ii) In relation to Westpac Shares traded on the NZX:*
- A) On 20 November 2019, the price of Westpac Shares declined by NZD\$0.74 (2.63%) from NZD\$28.15 to NZD\$27.41.*
  - B) On 21 November 2019, the price of Westpac Shares declined by NZD\$0.78 (2.85%) from NZD\$27.41 to NZD\$26.63.*
  - C) On 22 November 2019, the price of Westpac Shares declined by NZD\$0.33 (1.24%) from NZD\$26.63 to NZD\$26.30.*
  - D) On 25 November 2019, the price of Westpac Shares declined by NZD\$0.49 (1.86%) from NZD\$26.30 to NZD\$25.81.*
- iii) In relation to Westpac ADRs:*
- A) On 20 November 2019, the price of Westpac ADRs declined by USD\$0.80 (4.46%) from USD\$17.~~8595~~ to USD\$17.15.*
  - B) On 21 November 2019, the price of Westpac ADRs declined by USD\$0.24 (1.40%) from USD\$17.15 to USD\$16.91.*

C) On 22 November 2019, the price of Westpac ADRs declined by USD\$0.24 (1.42%) from USD\$16.91 to USD\$16.67.

D) On 26 November 2019, the price of Westpac ADRs declined by USD\$0.07 (0.42%) from USD\$16.67 to USD\$16.60.

## F. CONTRAVENING CONDUCT CAUSED LOSS

### F.1 Market-based causation (On-Market Acquisitions)

525. The Applicant and Group Members acquired an interest in Westpac Shares in a market of investors or potential investors in Westpac Shares:

- (a) operated by the ASX and/or the NZX;
- (b) regulated by, inter alia, ss 674(2) and 674(3) of the Corporations Act and ASX Listing Rule 3.1 and/or NZX Listing Rule 1.7.2;
- (c) where the price or value of Westpac Shares would reasonably be expected to have been informed or affected by information disclosed in accordance with ss 674(2) and 674(3) of the Corporations Act and ASX Listing Rule 3.1 and/or NZX Listing Rule 1.7.2;
- (d) where material information had not been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material adverse effect on the price or value of Westpac Shares (namely the information the subject of the ~~Continuous Disclosure Contraventions as set out at Part C.2 Systemic Failures Continuous Disclosure Contravention, the Child Exploitation Continuous Disclosure Contravention, and the Potential Penalty Continuous Disclosure Contravention~~ (together, the **Contravening Omissions**));
- (e) where misleading or deceptive conduct had occurred, namely the conduct the subject of the AML/CTF Compliance Misleading Representation Contravention, the AML/CTF Compliance Misleading Silence Contravention, ~~and~~ the Continuous Disclosure Compliance Misleading Conduct Contravention, ~~the~~ WIB IFTI Misrepresentation Contravention (or any of them) (together **Other Contravening Conduct**), that a reasonable person would expect to have a

material effect on the price or value of Westpac Shares insofar as, if the representations the subject of the Other Contravening Conduct had not been made, no investors or potential investors in Westpac Shares would have been in a position to read or rely upon them.

526. During the Relevant Period, the price at which Westpac ADRs traded on the New York Stock Exchange in the United States of America reflected the price of Westpac Shares and the exchange rate between Australian Dollars and United States Dollars.

527. During the Relevant Period, each or a combination of:

- (a) ~~the Systemic Failures Continuous Disclosure Contravention;~~
- (b) ~~the Child Exploitation Continuous Disclosure Contravention;~~
- (c) ~~the Potential Penalty Continuous Disclosure Contravention;~~
- (d) the AML/CTF Compliance Misleading Representation Contravention;
- (e) the AML/CTF Compliance Misleading Silence Contravention;
- (f) the Continuous Disclosure Compliance Misleading Conduct Representation Contravention; **and**
- (g) the Cleansing Notice Contravention,
- (h) any of the Continuous Disclosure Contraventions in Part C.2;
- (i) the July 2015 Cleansing Notice Contravention;
- (j) the October 2015 Cleansing Notice Contravention; and
- (k) the WIB IFTI Misrepresentation Contravention;

(each being a **Market Contravention**) caused or materially contributed to the market price of Westpac Shares and Westpac ADRs being greater than their true value and/or the market price that would have prevailed but for the Market Contraventions,

from the respective dates that those Market Contraventions commenced, as pleaded in this Statement of Claim.

### Particulars

*i) The extent to which the Market Contraventions caused the market price for Westpac Shares and Westpac ADRs to be greater than their true value and/or the market price that would otherwise have prevailed (that is, inflated) during the Relevant Period is a matter for evidence, particulars of which will be served immediately following the Applicant filing opinion evidence in the proceeding.*

528. The decline in the price of Westpac Shares and Westpac ADRs in paragraph [524175](#) above:

- (a) was caused or materially contributed to by:
  - (i) the market's reaction to the information communicated to the Affected Market in 20 November AUSTRAC Statement, Concise Statement, AUSTRAC SOC, First Westpac 20 November Statement, Second Westpac 20 November Statement, and Westpac 22 November Statement in the context of what had been communicated to the Affected Market prior to those announcements; and
  - (ii) the Market Contraventions; and
- (b) would, to the extent it removed inflation from the price of Securities, have occurred, or substantially occurred, earlier if:
  - (i) Westpac had disclosed to the Affected Market the information that was the subject of Contravening Omissions; and/or
  - (ii) Westpac had not engaged in the Other Contravening Conduct.

## Particulars

*i) The extent to which inflation was removed from the price of Westpac Shares and Westpac ADRs, and would have been removed at earlier points in time during the Relevant Period is a matter for evidence, particulars of which will be served immediately following the Applicant filing expert evidence.*

529. During the Relevant Period, the market for Westpac Swaps was a market that traded on the basis that the market for Westpac Shares had the features pleaded in paragraph [525476](#) above.
530. By reason of the matters pleaded in paragraphs [525476](#) to [529479A](#) above, at all times during the Relevant Period when Group Members entered into Westpac Swaps, they did so at a time when:
- (a) the market price of Westpac Shares was substantially greater than their true value and/or substantially greater than the market price that would have prevailed but for the Market Contraventions, from the respective dates that those Market Contraventions commenced, as pleaded in this Statement of Claim;
  - (b) the Westpac Swaps had been defined by reference to the price of Westpac Shares which had the features described in sub-paragraph (a);
  - (c) by reason of the matters pleaded in sub-paragraphs (a) and (b), the value of the future cashflows to be received by the equity amount receiver pursuant to the Westpac Swaps by reference to the performance of Westpac Shares was diminished and/or the value of the cashflows to be paid by the equity amount receiver in return was inflated.

## Particulars

*i) Particulars will be provided at the time of service of the Applicant's opinion evidence in chief, and/or prior to the trial of the individual*

*claims of Group Members following the determination of the common questions.*

## **F.2 Market-based causation (Capital Raising Acquisitions)**

531. On 15 October 2015, Westpac published and lodged with the ASX an announcement entitled “Westpac announces a \$3.5 billion Share Entitlement Offer and Preliminary Full Year 2015 Result” (14 October Announcement).
532. By the 14 October Announcement, Westpac announced:
- (a) It was undertaking a fully underwritten, pro rata accelerated renounceable entitlement offer to raise approximately \$3.5 billion of ordinary equity (Entitlement Offer);
  - (b) the Entitlement Offer would be undertaken at a fixed price of \$25.50 (Entitlement Offer Price), representing:
    - (ii) a 13.1% discount to the dividend-adjusted Theoretical Ex-Rights Price;  
and
    - (iii) a 13.6% discount to the 13 October 2015 dividend adjusted closing price of \$29.50;
  - (c) the entitlements could be exercised to buy 1 new share for every 23 Westpac ordinary shares held by a shareholder; and
  - (d) the Entitlement Offer would comprise an institutional entitlement offer taking place from 14 to 15 October 2015, and a retail entitlement offer taking place from 23 October 2015 to 11 November 2015.
533. On 17 November 2015, Westpac published and lodged with the ASX an announcement entitled “Westpac successfully completes Retail Shortfall Bookbuild” (17 November Announcement).

534. By the 17 November Announcement, Westpac announced that the Entitlement Offer had concluded, and that, under the institutional entitlement offer and retail entitlement offer, Westpac had raised approximately \$3.5 billion of ordinary equity.
535. The Entitlement Offer was undertaken:
- (a) at the Entitlement Offer Price of \$25.50, which was calculated by reference to a discount to the dividend-adjusted market price of Westpac Shares, which traded in a market with the features pleaded in paragraphs 525 and 527;
  - (b) at a price which, by reason of the matters pleaded in sub-paragraph (a):
    - (iv) would reasonably be expected to have been informed or affected by information disclosed in accordance with sections 674(2) of the Corporations Act and ASX Listing Rule 3.1 (and by s 708AA of the Corporations Act in respect of the Entitlement Offer);
    - (v) was set in circumstances where material information had not been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material adverse effect on the price or value of Westpac Shares (namely the 30 June 2014 Risk of IFTI Non-Compliance Information; 30 June 2014 Risk of IFTI Non-Compliance and Loss Information; 30 June 2014 IFTI Reporting Failures Information; 30 June 2014 IFTI Reporting Failures and Loss Information; 27 January 2015 Risk of Systemic Non-Compliance Information; 27 January 2015 Risk of Systemic Non-Compliance and Loss Information; 15 July 2015 Risk of IFTI Non-Compliance Information; 15 July 2015 Risk of IFTI Non-Compliance and Loss Information; 15 July 2015 IFTI Reporting Failures Information; and/or 15 July 2015 IFTI Reporting Failures and Loss Information (**October 2015 Market Contraventions**)); and
    - (vi) was set in circumstances where the Other Contravening Conduct had occurred, being conduct involving making, and failing to correct or qualify representations that a reasonable person would expect to have a material effect on the price or value of Westpac Shares (namely the First AML/CTF

Compliance Representations, the Second AML/CTF Compliance Representations, and the Continuous Disclosure Compliance Representation, to the extent they had been made as at the date of the Entitlement Offer), in that if they had not been made no investors or potential investors in Westpac Shares would have been in a position to read or rely upon them.

**Particulars**

*i) The extent to which the October 2015 Market Contraventions caused the offer price for Westpac Shares under the Entitlement Offer to be substantially greater than their true value and/or the price that they would have been offered had had they been set by reference to the market price that would otherwise have prevailed (that is, inflated) is a matter for evidence, particulars of which will be served immediately following the Applicant filing opinion evidence in the proceeding.*

536. Between 4 November 2019 and 5 November 2019, Westpac conducted the Placement whereby 78,988,941 new Westpac Shares were issued to certain sophisticated and professional investors.

**Particulars**

*i) Announcement published and lodged by Westpac with the ASX entitled 'Westpac successfully completes \$2 Billion Institutional Placement' dated 5 November 2019.*

*ii) Cleansing Notice.*

537. The Placement was undertaken:

(a) at the Placement Price, being an offer price of \$25.32 per new Westpac Share, being a price fixed by reference to the market price of Westpac Shares, which traded in a market with the features pleaded in paragraphs [525176](#) and [527178](#); and

(b) at a price which, by reason of the matters pleaded in sub-paragraph (a):

- (i) would reasonably be expected to have been informed or affected by information disclosed in accordance with sections 674(2) of the Corporations Act and ASX Listing Rule 3.1 (and by s 708A of the Corporations Act in respect of share issues such as the Placement);
- (ii) was set in circumstances where material information had not been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material adverse effect on the price or value of Westpac Shares (namely the information the subject of the Contravening Omissions); and
- (iii) was set in circumstances where the Other Contravening Conduct had occurred, being conduct involving making, and failing to correct or qualify representations that a reasonable person would expect to have a material effect on the price or value of Westpac Shares (namely the First AML/CTF Compliance Representations, the Second AML/CTF Compliance Representations and the Continuous Disclosure Compliance Representation), in that if they had not been made no investors or potential investors in Westpac Shares would have been in a position to read or rely upon them.

#### **Particulars**

- j) The extent to which the Market Contraventions caused the offer price for Westpac Shares under the Placement to be substantially greater than their true value and/or the price that they would have been offered had they been set by reference to the market price that would otherwise have prevailed (that is, inflated) is a matter for evidence, particulars of which will be served immediately following the Applicant filing opinion evidence in the proceeding.*

538. Between 12 November 2019 and 2 December 2019, Westpac conducted the SPP and issued new Westpac Shares to certain retail investors.

539. The SPP was undertaken:

- (a) at the price of \$24.20 per new Westpac Share, being a price fixed by reference to the market price of Westpac Shares, which traded in a market with the features pleaded in paragraphs [525176](#) and [527178](#); and
- (b) at a price which, by reason of the matters pleaded in sub-paragraph (a):
  - (i) would reasonably be expected to have been informed or affected by information disclosed in accordance with sections 674(2) of the Corporations Act and ASX Listing Rule 3.1 (and by s 708A of the Corporations Act in respect of share issues such as the SPP);
  - (ii) was set in circumstances where material information had not been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material adverse effect on the price or value of Westpac Shares (namely the information the subject of the Contravening Omissions); and
  - (iii) was set in circumstances where the Other Contravening Conduct had occurred, being conduct involving making, and failing to correct or qualify representations that a reasonable person would expect to have a material effect on the price or value of Westpac Shares (namely the First AML/CTF Compliance Representations, the Second AML/CTF Compliance Representations, and the Continuous Disclosure Compliance Representation), in that if they had not been made no investors or potential investors in Westpac Shares would have been in a position to read or rely upon them.

### **Particulars**

- i) The extent to which the Market Contraventions caused the offer price for Westpac Shares under the SPP to be substantially greater than their true value and/or the price that they would have been offered had had they been set by reference to the market price that would otherwise have prevailed (that is, inflated) is a matter for evidence,*

*particulars of which will be served immediately following the Applicant filing opinion evidence in the proceeding.*

540. Paragraph ~~528179~~ is repeated.

### **F.3 Reliance**

541. Further, or in the alternative to paragraphs ~~525176~~ to ~~530179A~~ and/or ~~531180~~ to ~~540184~~:

- (a) the Applicant and some Group Members would not have entered into the transactions pursuant to which they acquired an interest in Westpac Securities if they had known the information the subject of the Contravening Omissions; and/or
- (b) the Applicant and some Group Members relied on some or all of the Other Contravening Conduct in entering into the transactions pursuant to which they acquired an interest in Westpac.

#### **Particulars**

- i) The Applicant would not have entered into the transactions pursuant to which it acquired an interest in Westpac Shares had it known the information the subject of the Contravening Omissions and, it relied upon the Other Contravening Conduct.*
- ii) The identities of all those Group Members which or who would not have entered into the transactions pursuant to which they acquired an interest in Westpac Securities, had they known of any or all of the information that was the subject of the Contravening Omissions and/or which or who relied on any or all of the Other Contravening Conduct are not known within the current state of the Applicant's knowledge and cannot be ascertained unless and until those advising the Applicant take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims; those instructions will be obtained (and*

*particulars of the identity of those Group Members will be provided) following opt out, the determination of the Applicant's claim and identified common issues at an initial trial and if and when it is necessary for a determination to be made of the individual claims of those Group Members.*

#### **F.4 Loss or damage suffered by the Applicant and Group Members**

542. By reason of the matters pleaded in paragraphs [525476](#) to [530479A](#), and/or [531480](#) to [540484](#), and/or [541485](#) the Applicant and Group Members have suffered loss and damage by and resulting from the Market Contraventions (or any one or combination of them).

##### **Particulars**

- j) The loss suffered by the Applicant will be calculated by reference to:*
- A) the difference between the price at which Westpac Shares were acquired by the Applicant during the Relevant Period and the true value of that interest; or*
  - B) the difference between the price at which the Applicant acquired Westpac Shares and the market price that would have prevailed had the Market Contraventions not occurred; or*
  - C) alternatively, the days during the Relevant Period where the traded price of Westpac Shares fell as a result of the disclosure information which had not previously been disclosed because of the Market Contraventions, and the quantum of that fall; or*
  - D) alternatively, the days after the Relevant Period when the traded price of Westpac Shares fell as a result of the disclosure of information which had not previously been disclosed because of the Market Contraventions, and the quantum of that fall;*

- E) *alternatively, the difference between the price at which Westpac Shares were acquired by the Applicant and the price in left in hand.*
- ii) Further particulars in relation to the Applicant's losses will be provided after the service of evidence in chief.*
- iii) Particulars of the losses of Group Members are not known within the current state of the Applicant's knowledge and cannot be ascertained unless and until those advising the Applicant take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims; those instructions will be obtained (and particulars of the losses of those Group Members will be provided) following opt out, the determination of the Applicant's claim and identified common issues at an initial trial and if and when it is necessary for a determination to be made of the individual claims of those Group Members.*
- iv) For those Group Members who applied for Westpac Shares pursuant to the SPP and who withdrew from the SPP pursuant to the withdrawal offer announced by Westpac on 28 November 2019), the losses suffered by those Group Members will include the losses occasioned by the loss of use of their application monies.*

Date: ~~24 November 2023 16 December 2019 12 May 2020~~



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Signed by Tim Finney  
Lawyer for the Applicant

This pleading was prepared by ~~E.A. Collins of senior counsel~~ W. Harris KC and D.J. Fahey, L. Papaelia and T.A. Rawlinson of counsel.

**Certificate of lawyer**

I, Tim Finney, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 24 November 2023



Signed by Tim Finney

Lawyer for the Applicant

## ANNEXURE A

Bank	Dates of Preliminary Risk Assessments	Approval dates of Due Diligence Assessments
Bank A Parent	25 March 2014 17 May 2016 25 August 2017	5 May 2014 1 July 2016 6 September 2017
B	22 May 2014 13 May 2016 18 April 2017	10 July 2014 14 June 2016 26 May 2017
C	16 February 2015 17 June 2016 17 May 2017	9 June 2015 6 July 2016 15 June 2017
D	6 February 2015 4 November 2015 19 September 2016 14 November 2017	23 February 2015 8 February 2016 23 February 2017 19 December 2017
E	7 April 2014 28 January 2016 17 January 2018	7 April 2014 24 June 2016 28 March 2018
F	6 February 2015 30 December 2015 29 November 2016 18 December 2017	18 February 2015 8 February 2016 22 February 2017 22 January 2018
Bank G Subsidiary	24 March 2015 16 December 2016	9 June 2015 26 May 2017
H	22 February 2016 14 February 2018	12 May 2016 7 May 2018
I	24 February 2014 7 March 2016 12 April 2018	18 June 2014 15 June 2016 8 May 2018
J	12 April 2016 17 November 2017	18 May 2016 19 December 2017
K	11 April 2014	5 May 2014

	25 July 2016 19 July 2017	29 July 2016 9 August 2017
L	29 October 2014 30 May 2016 26 May 2017	23 February 2015 15 June 2016 30 June 2017
M	21 November 2014 22 February 2016 16 January 2017 13 November 2018	23 February 2015 11 March 2016 5 April 2017 2 April 2019
N	19 March 2014 9 September 2016 1 August 2017	18 June 2014 20 October 2016 29 August 2017
Ø	24 September 2013 1 February 2016 10 August 2017	14 January 2014 29 March 2016 28 August 2017
P	2 January 2014 29 December 2015 20 February 2018	14 March 2014 12 May 2016 5 April 2018

**ANNEXURE B**

A Customer-Number	B First Transaction Consistent with Typologies	C First SMR Date
1	November 2013	11/06/2019
2	November 2013	25/07/2019
3	April 2016	4/07/2019
4	November 2016	19/03/2018
5	June 2015	18/04/2019
6	May 2016	12/04/2018
7	March 2016	23 July 2018
8	May 2016	24 July 2018
9	March 2018	30/08/2019
10	March 2017	1/02/2019
11	February 2019	18/10/2019
12	No later than 10/06/2019	13/06/2019
13	11/05/2017	20/12/2019
14	21/08/2017	6/05/2020
15	23/10/2019	30/12/2019
16	30/06/2017	19/12/2019
17	24/08/2018	20/04/2020
18	19/12/2018	17/04/2019
19	11/04/2016	22/11/2019
20	8/07/2017	30/12/2019
21	24/07/2018	11/03/2020
22	4/09/2018	22/07/2020
23	19/11/2016	22/01/2020
24	7/05/2018	28/11/2019
25	29/10/2015	28/11/2019
26	31/03/2016	16/12/2019

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
27	27/06/2016	19/12/2019
28	9/11/2015	16/12/2019
29	7/07/2016	18/12/2019
30	29/12/2014	22/07/2020
31	8/06/2017	4/10/2018
32	1/04/2015	16/12/2019
33	29/08/2017	17/03/2020
34	28/09/2016	11/12/2019
35	5/09/2018	3/03/2020
36	23/01/2017	28/11/2019
37	29/09/2014	12/12/2019
38	9/03/2015	28/11/2019
39	21/10/2015	20/12/2019
40	2/05/2016	20/12/2019
41	19/11/2018	23/07/2019
42	14/04/2016	12/02/2020
43	15/12/2015	3/02/2020
44	17/11/2014	27/12/2019
45	28/11/2016	24/07/2018
46	2/02/2016	19/12/2019
47	8/01/2018	17/02/2020
48	6/10/2015	13/12/2019
49	26/09/2014	13/12/2019
50	21/04/2017	21/01/2019
51	12/10/2014	30/12/2019
52	7/03/2017	18/12/2019
53	9/05/2019	11/05/2020

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
54	25/02/2016	11/03/2020
55	12/05/2015	20/12/2019
56	27/06/2019	14/01/2020
57	4/02/2017	14/05/2020
58	29/02/2016	20/12/2019
59	19/10/2014	12/05/2020
60	11/10/2015	20/12/2019
61	23/03/2016	19/12/2019
62	9/03/2017	27/04/2020
63	22/03/2018	16/12/2019
64	1/06/2017	24/04/2020
65	11/04/2018	11/05/2020
66	6/03/2019	7/01/2020
67	7/12/2016	2/01/2020
68	15/08/2018	25/10/2019
69	20/11/2014	13/12/2019
70	6/08/2019	25/03/2020
71	16/02/2017	21/05/2019
72	4/02/2016	6/12/2019
73	3/10/2017	24/12/2019
74	21/10/2014	13/12/2019
75	27/01/2015	27/04/2020
76	19/07/2018	20/12/2019
77	17/10/2019	31/03/2020
78	7/01/2019	12/05/2020
79	27/06/2016	19/12/2019
80	7/12/2016	17/12/2019

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
81	23/06/2015	6/09/2018
82	17/07/2015	18/12/2019
83	9/01/2015	21/01/2020
84	20/04/2017	19/12/2019
85	15/01/2016	19/12/2019
86	22/02/2019	17/04/2019
87	25/02/2016	19/12/2019
88	3/06/2015	6/04/2020
89	24/07/2017	20/12/2019
90	10/10/2018	17/04/2020
91	21/07/2016	17/03/2020
92	26/10/2015	10/12/2019
93	12/10/2015	27/09/2018
94	1/09/2018	5/05/2020
95	3/07/2017	16/12/2019
96	13/03/2016	12/12/2019
97	19/11/2015	22/01/2020
98	27/06/2018	12/12/2019
99	15/03/2018	21/05/2019
100	3/12/2014	20/01/2020
101	17/11/2015	21/01/2020
102	17/09/2015	16/12/2019
103	25/09/2016	29/01/2020
104	13/07/2018	6/12/2019
105	3/01/2018	12/12/2019
106	10/12/2016	20/12/2019
107	16/03/2017	13/05/2020

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
408	20/02/2018	7/05/2020
409	7/10/2019	31/03/2020
410	1/08/2017	3/03/2020
411	15/07/2019	24/12/2019
412	21/07/2017	6/12/2019
413	10/10/2018	22/11/2019
414	8/10/2014	16/12/2019
415	1/04/2018	19/11/2019
416	7/12/2015	20/12/2019
417	21/02/2018	24/12/2019
418	7/12/2017	3/12/2019
419	28/11/2016	19/05/2020
420	11/01/2016	11/03/2020
421	20/01/2016	13/12/2019
422	30/09/2015	20/12/2019
423	21/08/2017	26/11/2019
424	3/04/2019	16/12/2019
425	26/03/2019	8/05/2020
426	18/10/2014	27/04/2020
427	1/09/2016	6/12/2019
428	2/01/2018	18/12/2019
429	15/05/2019	4/12/2019
430	1/12/2018	5/05/2020
431	2/09/2015	25/11/2019
432	3/06/2019	16/12/2019
433	3/08/2018	16/12/2019
434	1/09/2015	4/12/2019

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
135	16/08/2016	21/01/2020
136	27/10/2015	20/12/2019
137	17/11/2016	16/12/2019
138	27/01/2015	12/12/2019
139	17/11/2016	5/12/2019
140	8/12/2016	6/01/2020
141	31/08/2018	20/12/2019
142	21/06/2018	14/05/2020
143	15/12/2016	16/12/2019
144	28/03/2017	20/12/2019
145	22/07/2015	5/05/2020
146	15/02/2016	19/12/2019
147	18/05/2016	29/11/2019
148	5/10/2015	25/11/2019
149	9/03/2018	6/12/2019
150	16/11/2016	5/12/2019
151	10/10/2017	24/02/2020
152	29/10/2015	19/12/2019
153	15/07/2019	13/01/2020
154	8/12/2015	20/12/2019
155	31/05/2016	19/12/2019
156	4/01/2019	16/12/2019
157	7/01/2018	13/05/2020
158	31/01/2018	11/11/2019
159	31/03/2019	10/12/2019
160	25/04/2019	7/05/2019
161	7/06/2019	15/05/2020

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
162	14/07/2017	20/08/2018
163	12/06/2017	13/05/2020
164	19/05/2017	11/12/2019
165	10/04/2017	10/02/2020
166	7/10/2016	6/05/2020
167	25/10/2018	17/12/2019
168	21/10/2015	11/05/2020
169	12/09/2016	12/12/2019
170	30/12/2016	16/12/2019
171	8/12/2016	25/02/2020
172	13/07/2018	20/12/2019
173	13/06/2016	21/11/2019
174	30/05/2018	19/12/2019
175	21/11/2016	16/12/2019
176	18/03/2015	13/11/2019
177	24/07/2017	16/12/2019
178	30/08/2017	19/12/2019
179	8/09/2016	20/12/2019
180	17/12/2015	19/11/2019
181	18/04/2016	29/01/2020
182	2/11/2015	28/11/2019
183	13/05/2019	18/12/2019
184	20/02/2018	18/12/2019
185	10/10/2017	16/12/2019
186	17/09/2017	25/07/2018
187	8/01/2018	20/12/2019
188	17/10/2016	18/12/2019

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
189	7/12/2016	22/12/2019
190	16/07/2018	1/11/2018
191	23/10/2015	6/12/2019
192	21/12/2016	20/12/2019
193	8/01/2017	13/12/2019
194	3/09/2015	20/12/2019
195	12/04/2018	16/12/2019
196	11/01/2016	12/12/2019
197	17/07/2017	24/12/2019
198	27/04/2018	13/05/2020
199	30/05/2017	22/11/2019
200	22/09/2017	18/12/2019
201	14/09/2017	16/12/2019
202	3/09/2015	16/12/2019
203	28/12/2018	16/12/2019
204	22/09/2017	10/01/2020
205	11/02/2018	16/12/2019
206	29/08/2016	19/02/2020
207	1/05/2015	25/11/2019
208	4/04/2016	6/12/2019
209	12/01/2016	20/12/2019
210	2/08/2016	15/11/2018
211	21/11/2015	3/12/2019
212	17/11/2018	19/11/2019
213	10/08/2016	19/12/2019
214	1/12/2016	18/12/2019
215	7/10/2014	21/01/2020

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR-Date
216	1/02/2016	18/12/2019
217	18/09/2017	19/05/2020
218	30/08/2016	17/02/2020
219	5/06/2016	16/12/2019
220	31/07/2017	2/02/2020
221	29/09/2014	11/12/2019
222	15/12/2018	27/04/2020
223	13/04/2018	3/02/2020
224	27/07/2016	19/12/2016
225	11/03/2017	2/01/2020
226	7/12/2016	16/12/2019
227	28/12/2018	6/12/2019
228	4/04/2018	20/12/2019
229	24/09/2019	21/01/2020
230	25/01/2016	19/11/2019
231	5/12/2016	16/12/2019
232	27/08/2018	13/12/2019
233	19/03/2016	20/12/2019
234	6/11/2018	14/05/2020
235	11/06/2015	19/12/2019
236	14/12/2015	20/12/2019
237	25/07/2016	18/12/2019
238	10/06/2016	21/04/2020
239	10/05/2017	22/01/2020
240	9/10/2018	10/12/2019
241	17/06/2015	25/02/2020
242	23/09/2015	16/12/2019

A	B	C
Customer-Number	First Transaction Consistent with Typologies	First SMR Date
243	3/12/2015	20/12/2019
244	11/01/2019	13/05/2020
245	29/03/2016	20/12/2019
246	15/02/2018	11/03/2020
247	19/10/2015	2/03/2020
248	8/03/2016	19/12/2019
249	21/11/2014	20/12/2019
250	19/12/2016	28/11/2019
251	04/09/2015	19/12/2019
252	1/07/2018	12/05/2020
253	13/02/2017	20/12/2019
254	31/07/2017	16/12/2019
255	15/12/2015	30/12/2019
256	31/07/2017	23/03/2020
257	10/02/2016	20/12/2019
258	13/02/2017	18/12/2019
259	18/11/2016	29/01/2020
260	14/12/2016	6/12/2019
261	24/09/2014	<del>27 February 2018</del>
262	January 2017	<del>27 February 2018</del>

## SCHEDULE OF DEFINED TERMS

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