

**SHAREHOLDER CLASS ACTION AGAINST WESTPAC  
FEDERAL COURT OF AUSTRALIA**

***Edmund How Fen Yong v Westpac Banking Corporation (VID1373/2019)***

**IMPORTANT NOTICE TO GROUP MEMBERS  
PLEASE READ CAREFULLY**

A class action against Westpac Banking Corporation was commenced in the Federal Court of Australia on 17 December 2019. The Court has issued this notice.

**If you purchased shares in Westpac between 30 June 2014 and 19 November 2019 (inclusive), you should read this notice carefully as it may affect your rights.**

If you wish to participate in any settlement of this class action you must comply with this Notice by **4pm AEDT on 24 October 2025**. If you do not do so your rights may be lost. This notice provides important information about:

- a) the Class Action against Westpac and who is eligible to participate in it;
- b) if you are eligible to participate and wish to do so, how you can register for the Class Action against Westpac; and
- c) what you need to do if you do not wish to participate in the Class Action against Westpac, and instead wish to remove yourself ('opt out') from being a group member in the Class Action against Westpac.

Group members who intend to remain in the class action and who have not yet signed up may register by **4pm AEDT on 24 October 2025**. While registration is not mandatory, failure to do so could have significant consequences because the parties intend to seek an order that group members who do not register by the deadline will not be entitled to participate in any settlement that may be agreed to before the commencement of trial.

You have been provided a copy of this Notice pursuant to orders of the Federal Court even if you have previously registered for this class action.

If you have any questions, do not contact the Court. Contact the Applicant's lawyers at Phi Finney McDonald or seek independent legal advice.

### Why is this Notice important?

1. On 17 December 2019, a class action was commenced in the Federal Court of Australia by Mr Edmund How Fen Yong (**Applicant**) on behalf of all persons who acquired shares in Westpac Banking Corporation (**Westpac**) between 30 June 2014 and 19 November 2019 (inclusive) (**Class Action against Westpac**).
2. The Federal Court has ordered that this Notice be published for the information of persons who might be members of the class on whose behalf the action is brought and who may be affected by the action. You have been identified as a potential group member based on share registry information.
3. **You should read this Notice carefully. Any questions you have concerning the matters contained in this Notice should not be directed to the Court.** If there is anything in it that you do not understand, you should seek legal advice.

### What is a class action?

4. A class action is an action that is brought by one or more persons (an "Applicant") on his or her own behalf and on behalf of a class of people ("group members") against another person (a "Respondent") where the Applicant and the group members have similar claims against the Respondent.
5. The Applicant in a class action does not need to seek the consent of group members to commence a class action on their behalf or to identify a specific group member. However, group members can cease to be group members by opting out of the class action. An opt out process in this claim was completed in September 2021. **If you did not opt out of the proceeding, and you acquired shares in Westpac between 30 June 2014 and 19 November 2019 (inclusive), you are a group member. You have another opportunity to opt out of the proceeding now, which is explained below.** If you opted out of this proceeding in 2021, you are no longer a group member and do not need to opt out again. There is more information about group membership below.
6. Group members are "bound" by the outcome in the class action, unless they have opted out of the proceeding. A binding result can happen in two ways being: (i) either a judgment following a trial; or (ii) a settlement at any time. Being bound by the outcome means that if there is a judgment or a settlement of a class action, group members will not be able pursue the same claims and may not be able to pursue similar or related claims against the respondent in other legal proceedings. Group members should note that:
  - (a) in a judgment following trial (**final judgment**), the Court will decide various factual and legal issues in respect of the claims made by the Applicant and group members. Unless those decisions are successfully appealed, they bind the Applicant, group members and the respondent. Importantly, if there are other proceedings between a group member and the respondent, it is likely that neither of them will be permitted to raise arguments in that proceeding which are inconsistent with a factual or legal issue decided in the class action;
  - (b) in a settlement of a class action, that settlement will likely extinguish all rights to compensation (other than those that may be obtained from the settlement) which a group member might have against the respondent and may extinguish

rights to compensation against its related entities, including its past and present officers, which arise in any way out of the events or transactions which are the subject matter of the class action.

### **What is the Class Action against Westpac?**

7. The Class Action against Westpac is brought by the Applicant, Mr Yong, on his own behalf and on behalf of all persons who are group members as defined in the proceeding.
8. Mr Yong alleges that:
  - (a) Westpac committed breaches of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and associated Rules;
  - (b) Westpac did not properly inform the share market of material information in relation to the breaches in a timely manner, and in doing so Westpac contravened its obligations of continuous disclosure under the *Corporations Act 2001* (Cth) and the ASX Listing Rules, and also engaged in misleading and deceptive conduct; and
  - (c) the above conduct caused loss and damage to persons who purchased Westpac shares (or certain other securities) during the relevant period from 30 June 2014 to 19 November 2019 inclusive (**Relevant Period**).
9. The details of the allegations are set out in the Second Amended Statement of Claim filed with Court on 4 December 2023. The Second Amended Statement of Claim can be accessed at [this link](#). Westpac denies the claims made against it in its Amended Defence dated 22 March 2024. The Defence can be accessed at [this link](#).
10. The Applicant is bringing the Class Action against Westpac with funding from Woodsford Group Limited (**Woodsford**). The Applicant's lawyers are Phi Finney McDonald.

### **Are you a group member in the Class Action against Westpac?**

11. You are a group member in the Class Action against Westpac if:
  - (a) you acquired an interest in Westpac securities during the Relevant period by either:
    - (i) purchasing fully paid ordinary shares in Westpac;
    - (ii) purchasing Westpac American Depositary Receipts; or
    - (iii) acquiring an interest in long exposure to Westpac shares by entering into equity swap confirmations for Westpac shares; and
  - (b) you have suffered loss or damage as a result of the conduct alleged against Westpac in the Second Amended Statement of Claim; and
  - (c) you were not, during any part of the Relevant Period or subsequently:
    - (i) a related party, related body corporate, associated entity, or officer or close associate of Westpac;

- (ii) a Judge of the Federal Court of Australia or the High Court of Australia;
  - (iii) an officer, employee, or legal practitioner engaged by Phi Finney McDonald in relation to the Class Action against Westpac; or
  - (iv) an expert or consultant engaged in relation to the Class Action against Westpac; and
- (d) you did not cease to be a group member by opting out of the class action by 4:00pm (AEST) on 8 September 2021.
12. If you are a group member because you meet the above description, you should read this Notice carefully as it will affect your rights.
13. If you are unsure whether or not you are a group member, you should contact Phi Finney McDonald on (03) 9134 7100, email [westpac@pfm.law](mailto:westpac@pfm.law) or seek your own legal advice without delay.

### **YOUR OPTIONS**

14. If you are a group member, you have three options at this stage, and must choose one of them before **24 October 2025**: (a) register; (b) opt out; or (c) do nothing.
15. There are different consequences depending on which option you choose:

#### **OPTION A – Register and remain a group member**

Group members who register will be bound by, and be eligible to share in any benefit pursuant to any in-principle settlement (subject to Court approval) of this proceeding agreed to by the parties prior to final judgment, and will also be bound by any final judgment.

To register you need to complete a Group Member Registration Form via <https://phifinneymcdonald.com/action/westpac-class-action> by no later than **4:00pm (AEDT) on 24 October 2025**.

If you wish to Register, please complete a Group Member Registration Form even if you have previously provided your details to Phi Finney McDonald.

#### **OPTION B – Opt Out and cease to be a group member**

If you are currently a group member and you choose to opt out, you will cease to be a group member in the Class Action against Westpac.

By opting out of the Class Action against Westpac, you will:

- cease to be a group member in the Class Action against Westpac and will not be affected by, or entitled to the benefit of, any judgment or orders made in the Class Action against Westpac;
- not be entitled to receive any compensation for any damages award or part of any settlement secured by the Applicant in the Class Action against Westpac; and
- be able to bring your own separate claim against Westpac provided that you issue Court proceedings within the time limit applicable to your claim. If you wish

to bring your own claim against Westpac, you should seek your own legal advice about your claim and the applicable time limit prior to opting out.

If you do not wish to remain a group member in the Class Action against Westpac, you must complete an Opt Out Form attached to this notice (**Schedule 1**), and return it to the Victorian Registry of the Federal Court of Australia by no later than 4pm AEDT on 24 October 2025.

Each group member seeking to opt out should fill out a separate form. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner). You should provide your completed Opt Out Notice directly to the Victorian District Registry of the Federal Court of Australia:

- (a) by post to: Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne VIC 3000; or
- (b) by email at [vicreg@fedcourt.gov.au](mailto:vicreg@fedcourt.gov.au)

before 4:00pm (AEDT) on 24 October 2025.

The Opt Out Notice must reach the Court by no later than 4pm AEDT on 24 October 2025, otherwise it will not be effective. Opt Out Notices received after this time will not be accepted and you will be treated as having not responded to this notice, and thus you will remain a group member.

### **OPTION C – Do nothing and remain a group member**

Group members who do not register and who have not opted out in accordance with the orders made by the Court (**Unregistered Group Members**) will remain a group member in the Class Action against Westpac and be bound by the outcome (whether by way of settlement or judgment).

Upon any settlement of the proceeding, the parties plan to seek an order, which, if made, has the effect of providing that any Unregistered Group Member will remain a group member but will not, without leave of the Court, be permitted to seek any benefit from any in-principle settlement (subject to Court approval) of this proceeding agreed to by the parties prior to commencement of trial. You will be an Unregistered Group Member if you do nothing in response to this Notice, unless you have already registered for the Class Action against Westpac or have already opted out. Phi Finney McDonald will deliver a copy of this notice to each group member who has previously registered. If you do not receive the notice from Phi Finney McDonald, then you have not registered.

16. Further information about each option, and how to comply with them, is outlined below. Before making your decision, you should read the whole of this Notice carefully.

## **FUNDING OF THIS CLASS ACTION**

### **Litigation funding arrangements**

17. In litigation, the Court will typically order the losing party to pay a proportion of the legal costs of the successful party (an adverse costs order). In a class action, it is only the Applicant that faces the risk of an adverse costs order if the action fails. As a group member, an adverse costs order will not be made against you.

18. The Applicant has entered into a litigation funding agreement (**LFA**) with Woodsford and has retained Phi Finney McDonald to act as his lawyers pursuant to a Conditional Legal Costs Agreement (**CLCA**).
19. The LFA provides that Woodsford will:
  - (a) pay the Applicant's out of pocket expenses (disbursements) and most of the Applicant's professional legal fees of the action;
  - (b) indemnify the Applicant in respect of any adverse costs orders; and,
  - (c) provide any security for costs that the Court may order.
20. The class action may result in an award of damages or a settlement sum payable to group members. If so, the LFA provides that the Applicant and Woodsford will seek the following amounts from the settlement sum:
  - (a) reimbursement to Woodsford of the amount it has spent on legal costs and other out of pocket expenses incurred in relation to the proceedings;
  - (b) payment of the component of legal costs that Phi Finney McDonald has carried on a no-win, no-fee basis (being the part of professional fees that Woodsford is not paying under the LFA) and an "uplift fee", which is equal to 25% of this component of legal costs; and
  - (c) payment to Woodsford of up to 27.5% of any amount for which the claims are settled or judgment is given

**(Funding Charges).**

21. Payment of these amounts is subject to Court approval. These amounts will only be recoverable in the event of a successful outcome in the proceeding.

**Potential funding or class closure order**

22. In the event of a favourable settlement outcome or judgment and for the purposes of any distribution of a monetary sum in accordance with that outcome, the Applicant and Woodsford may apply to the Court for a form of expense sharing order to equitably and fairly distribute the burden of the Funding Charges, amongst all group members who have benefited from the action.
23. Such an order would require Group Members who benefit from a favourable settlement outcome or judgment to contribute to the Funding Charges from their share of the proceeds of that settlement or judgment (and not from their own pocket). That contribution will be proportionate to the group member's share of the settlement, such that all Group Members pay the same proportion of their share of the settlement toward the Funding Charges. For example, if the Funding Charges (in the aggregate) amount to 40% of the settlement, then 40% of each Group Member's entitlement from the settlement will be used to contribute to the Funding Charges.
24. Such an order requires Court approval. Before any such order is made, affected Group Members will be given an opportunity to be heard on whether such an order should be made by the court.

### **Why do I have a second opportunity to opt out of the proceeding?**

25. An opt out process was conducted in this proceeding in September 2021, and some group members decided to stop participating in the class action at that time. If you opted out of the proceeding by returning an opt out notice in 2021, you are not a group member, and you do not need to do anything in response to this notice.
26. In March 2025, the Applicant has entered into (a) a new LFA with Woodsford, which replaced the agreement that applied in September 2021 and (b) a new retainer with Phi Finney McDonald. The new LFA and retainer have increased the Funding Charges that will be sought in the event the proceeding has a successful outcome. Because of this, you have a further opportunity to opt out of the proceeding now if you did not opt out in September 2021.
27. Under the new LFA, there are still no circumstances in which individual group members will need to pay any costs out of pocket. The total amounts deducted for legal costs and the funder's commission from compensation payable to group members (which amounts require approval of the Court) will never exceed the amount a group member receives in the event of a successful outcome.

### **WHERE TO GET FURTHER INFORMATION**

28. Copies of relevant documents, including the Amended Originating Application, the Second Amended Statement of Claim and the Amended Defence may be obtained by:
  - (a) downloading them from <http://phifinneymcdonald.com/projects/>;
  - (b) requesting them by email to [westpac@pfm.law](mailto:westpac@pfm.law); or
  - (c) inspecting them at the Federal Court by visiting a District Registry of the Federal Court in Sydney, Canberra, Melbourne, Brisbane, Adelaide, Perth, Hobart or Darwin. The addresses for these registries are available at [www.fedcourt.gov.au](http://www.fedcourt.gov.au) or by calling the Victoria District Registry on (03) 8600 3333.
29. If there is anything of which you are unsure, you should contact Phi Finney McDonald via email at [westpac@pfm.law](mailto:westpac@pfm.law) or seek your own legal advice. You should not delay in making your decision.

## Schedule 1

Form 21

Rule 9.34

### Opt out notice –Class Action against Westpac

No. VID1373 of 2019

Federal Court of Australia

District Registry: Victoria

Division: General

**Edmund How Fen Yong**

Applicant

**Westpac Banking Corporation (ACN 007 457 141)**

Respondent

To: The Registrar

Federal Court of Australia

Victorian District Registry

305 William Street VIC 3000

\_\_\_\_\_ (print name), a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that [he, she, they, it] (circle as appropriate) is opting out of the representative proceeding.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Group Member / Lawyer for the Group Member (circle as appropriate)

**Please turn over and complete the next page →**



**Group Member details**

Telephone .....

Email .....

ACN/ABN .....  
(if a company or trustee)

HIN/SRN .....

If the shares were acquired on behalf of another person/entity, name of that person/entity:

.....

**If you are signing as the solicitor or representative of the Group Member:**

Name .....

Capacity .....

Address .....

Telephone .....

Email .....