

NOTICE OF FILING

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Details of Filing

Document Lodged: Non-Prescribed Pleading
File Number: NSD1914/2019
File Title: CHIEF EXECUTIVE OFFICER OF THE AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE v WESTPAC BANKING CORPORATION ACN 007 457 141
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Dated: 21/11/2019 10:51:12 AM AEDT

Registrar

Important Information

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

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Form 17
Rule 8.05(1)(a)

STATEMENT OF CLAIM

FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY:

DIVISION: COMMERCIAL AND CORPORATIONS

NO NSD

OF 2019

CHIEF EXECUTIVE OFFICER OF THE AUSTRALIAN
TRANSACTION REPORTS AND ANALYSIS CENTRE
APPLICANT

WESTPAC BANKING CORPORATION
ACN 007 457 141
RESPONDENT

PARTIES

The Chief Executive Officer of AUSTRAC

1. The Applicant is the Chief Executive Officer (**CEO**) of the Australian Transaction Reports and Analysis Centre (**AUSTRAC**), an office established under s 211 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (the **Act**).
2. The AUSTRAC CEO may apply for a civil penalty order by reason of s 176 of the Act.
3. The objects of the Act, among others, include to provide for measures to detect, deter and disrupt money laundering, the financing of terrorism and other serious financial crimes.

Particulars

Section 3(1)(aa) of the Act.

4. The objects of the Act, among others, also include to promote confidence in the Australian financial system through the enactment and implementation of controls and powers to detect, deter and disrupt money laundering, terrorism financing and other serious crimes.

Particulars

Section 3(1)(ad) of the Act.

5. The AUSTRAC CEO may, by writing, make rules prescribing matters required or permitted by any provision of the Act to be prescribed by the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* (the **Rules**).

Filed on behalf of the Applicant, the Chief Executive Officer of
the Australian Transaction Reports and Analysis Centre

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Particulars

Section 229 of the Act.

Westpac Banking Corporation

6. The Respondent, Westpac Banking Corporation (**Westpac**):
- a. is and was at all material times a company incorporated in Australia;
 - b. is and was at all material times a person within the meaning of s 5 of the Act;
 - c. is and was at all material times licensed to carry on banking business in Australia under the *Banking Act 1959* (Cth);
 - d. is and was at all material times an Authorised Deposit-Taking Institution (**ADI**), being a corporation which is authorised under the *Banking Act 1959* (Cth) to take deposits from customers;
 - e. is and was at all material times a financial institution within the meaning of s 5 of the Act;
 - f. at all material times has carried on activities or business through a permanent establishment in Australia for the purposes of the Act;
 - g. is and was at all material times a reporting entity within the meaning of s 5 of the Act; and
 - h. provides designated services to customers within the meaning of s 6 of the Act.

Particulars

Westpac provides, among others, the following designated services:

Item 1, Table 1 – in the capacity of account provider, opening an account, where the account provider is an ADI.

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.

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.

Item 29, Table 1 – in the capacity of an ordering institution, accepting an electronic funds transfer instruction from the payer.

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.

Correspondent Banking Relationships and the international transfer of funds

7. Westpac has correspondent banking relationships with financial institutions that carry on activities or business at or through permanent establishments in countries other than Australia.

Particulars

Westpac has correspondent banking relationships with 16 foreign banks, referred to as Banks A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, and P in these pleadings (the **correspondent banks** and the **correspondent banking relationships**).

Each of these relationships involve the provision, by Westpac, of banking services involving a Vostro account, to each of the correspondent banks.

The definition of correspondent banking relationship in s 5 of the Act and Part 3.2 of the Rules.

8. At all material times, Westpac has had arrangements with each of the correspondent banks to allow for the international transfer of funds by overseas and domestic customers of the correspondent banks to Australian or New Zealand beneficiaries, as well as to other jurisdictions.

Particulars

The arrangements vary from bank to bank. They include, but are not limited to, the following:

The ACM arrangements

The Australasian Cash Management (**ACM**) arrangements allow correspondent banks to use Westpac's infrastructure to process payments for their overseas and domestic customers through Australian or New Zealand domestic payments systems, avoiding the need for the correspondent bank to itself establish direct access to those domestic payments systems.

The ACM arrangements offered to correspondent banks involved varied models and offerings, which were variously referred to as the ACM1, ACM2, and ACM3, amongst others. There was scant documentation on these arrangements and their features.

These arrangements enable customers (**payers**) of correspondent banks to make payments, including high volume payments, to multiple beneficiaries (**payees**) through a single communication channel. Many payments were of lower value, but high value payments up to \$100 million could also be facilitated.

Some of these arrangements also allow customers of correspondent banks to receive payments, via Westpac, from debtors.

Instructions under the ACM arrangements are generally initiated by the customer of the correspondent bank using the correspondent bank's platform. The correspondent bank then sends the instructions to Westpac. Globally, most international transfers are sent through the Society for Worldwide Interbank Financial Telecommunication (**SWIFT**) network. Instructions sent through SWIFT are required to contain certain payment information in order to comply with SWIFT messaging format and SWIFT Guidelines. This includes information about the ordering customer, or payer, and about the beneficiary, or payee.

Westpac considered that the SWIFT payment network was costly and not an efficient means of sending low value, large volume payments for clients of global banks that need to make and receive payments around the world.

For this reason, under a number of the ACM arrangements, the correspondent banks 'batch' funds transfer instructions from multiple payers to multiple payees and send the instructions to Westpac in a single structured data file, via non-SWIFT channels (the **non-SWIFT ACM arrangements**).

Instructions sent through the non-SWIFT ACM arrangements do not contain the full information required by the SWIFT Guidelines and involve lower costs than instructions sent through SWIFT.

These instructions would typically be given by a customer to a correspondent bank in a foreign denominated currency. Any currency conversion to AUD (or NZD as applicable) is performed by the correspondent bank before the instruction is sent to Westpac. The correspondent bank does not provide Westpac with any information about the currency conversion.

Instructions may also be accepted by Westpac under the ACM arrangements in a range of currencies other than AUD, including USD, THB, CNY, HKD, INR, PKR, JPY, PHP, FJD, EUR, SGD, PGK, GBP, CHF, VUV, KRW, ZAR, CAD, NOK, TWD, PLN, SEK and ARS for payments to be processed via outgoing telegraphic transfer (**OTT**) to other jurisdictions.

A number of the non-SWIFT ACM arrangements were terminated by Westpac in late 2018 and in early 2019.

OSBSB arrangements

Bank B and Bank J have arrangements with Westpac through which each bank has opened a Westpac settlement account which is allocated an off-system BSB (**OSBSB**). Each correspondent bank maintains customer accounts on its own ledger using this OSBSB (the **customer accounts**). Each customer account mirrors a virtual account or a sub-account of the correspondent bank's account with Westpac.

These 'agency' or OSBSB arrangements allow the correspondent banks to use Westpac's infrastructure to process payments for their overseas and domestic customers through the Australian payments system, avoiding the need for the correspondent bank to itself establish direct access to those domestic payments systems. Bank B and Bank J may also transfer money into and out of the settlement account in its own right.

The Bank B OSBSB arrangements were provided as part of the ACM2 arrangements and possibly involved payable-through services or accounts.

A payable-through account is an account held by a correspondent bank that is used directly by a third party to transact business on its own behalf.

9. On and from August 2016, Westpac has facilitated international transfers from Australia to other countries through a platform known as LitePay.

Particulars

The Bank Q, Bank C and Bank B may receive international funds transfers up to AUD 3,000 from Westpac account holders via a low cost platform, known as LitePay.

To facilitate transfers to the Philippines via LitePay, Westpac held a Nostro account with Bank Q. Bank Q did not have a Vostro with Westpac.

10. At all material times, the arrangements particularised at paragraph 8 and 9 have each involved the provision of designated services by Westpac to customers.

Particulars

If the payee with respect to an instruction sent via the arrangements is receiving payment into a Westpac account, Westpac, as the beneficiary institution, will make the money available to the payee: items 3 and 30, table 1, s 6 of the Act.

If the payer with respect to an instruction sent via the arrangements is transferring money from a Westpac account, Westpac is the ordering institution: items 3 and 29, table 1, s 6 of the Act.

Other instructions under the arrangements involve transactions on accounts opened by Westpac, including Vostro accounts held by the correspondent banks: items 1, 2 and 3, table 1, s 6 of the Act.

11. At all material times, a number of the arrangements particularised at paragraph 8 have involved Westpac passing on instructions to beneficiary institutions, as the interposed institution in the funds transfer chain.

Particulars

If the payee with respect to an instruction sent via an arrangement is not receiving payment into a Westpac account, Westpac will pass on the instruction to the beneficiary institution.

The beneficiary institution will make the money available to the payee at or through a permanent establishment of the beneficiary institution in Australia, New Zealand or other jurisdiction.

In other cases, another Australian financial institution will be the ordering institution for an instruction for funds to be transferred out of Australia, that Westpac will pass on to a foreign financial institution, as the interposed institution.

Section 64(2) of the Act.

Relationship with Ordering Institution A

12. On and from October 2016, Westpac has had an arrangement with Ordering Institution A to allow for the transfer of international payments by overseas customers of Ordering Institution A to Australian beneficiaries.

Particulars

The Ordering Institution A customer overseas initiates a request for a payment instruction through an application or desktop interface.

Ordering Institution A is the ordering institution for the purposes of s 8(1) of the Act. Westpac processes the payment instructions to Australian beneficiary accounts.

CORRESPONDENT BANKING DUE DILIGENCE - CONTRAVENTIONS OF S 98 OF THE ACT

Preliminary risk assessments

13. On and from 20 November 2013, Westpac has failed to carry out regular assessments of the risks it may reasonably face that each of the correspondent banking relationships might (inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism (the **preliminary risk assessment**), contrary to s 98(1) of the Act.

Particulars

Correspondent banking is an arrangement under which one bank holds deposits owned by other banks and provides payment and other services to those other banks and their customers.

Correspondent banking involves higher money laundering and terrorism financing (**ML/TF**) risks. These risks include the inherent risks with cross border movements of funds, jurisdictional risk and limited transparency as to the identity and source of funds of customers of the correspondent bank.

Reciprocal correspondent banking relationships may involve the use of Nostro and Vostro accounts to settle foreign exchange transactions.

A Vostro account is the term used by Bank 1 to refer to an account held by Bank 1 for Bank 2. A Nostro account is the term used by Bank 1 to refer to an account held by Bank 2 for Bank 1.

The banking services provided by Westpac to Banks A, B, C, D, E, F, G, H, I, J, K, L, M, N, O and P each involved a Vostro account (**the correspondent banking relationships or the 16 correspondent banks**): s 5 of the Act and Part 3.2 of the Rules.

The inherent risks of the banking services provided by Westpac to the correspondent bank

During the relevant period, Westpac carried out 47 assessments with respect to the 16 correspondent banks.

However, at no time did Westpac carry out an appropriate assessment of the inherent risks it may reasonably face that the banking services provided through each of the correspondent banking relationships might (inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism, as required by s 98(1) of the Act.

Westpac did not identify the banking services and transactions it facilitated through its correspondent banking relationships. The inherent ML/TF risks reasonably faced by Westpac with respect to these banking services and transactions were therefore not assessed.

Westpac did not assess the impact of known higher ML/TF risks upon the banking services provided by Westpac to the correspondent bank. For example:

- A number of correspondent banks disclosed to Westpac that they provided services through nested arrangements. A nested arrangement is the use of a bank's correspondent relationship by other underlying financial institutions through their relationship with the bank's direct customer. The underlying financial institutions conduct transactions without being direct customers of the correspondent bank. It is also known as downstream correspondent banking.
- A number of correspondent banks disclosed relationships with banks in sanctioned countries.
- A number of correspondent banks disclosed subsidiaries in sanctioned countries. In one case, Westpac opened a Vostro account for a subsidiary in a sanctioned country.
- Some banking services, including those facilitated through the non-SWIFT ACM arrangements, involved payments that were not fully transparent. In a significant number of cases, Westpac did not know the originator, purpose of payment, beneficiary or jurisdiction of the origin of funds. Some banking services possibly involved payable-through services.
- It appears that Westpac facilitated payable-through services via the ACM2 arrangements with Bank B.

In a number of instances, Westpac did not appropriately assess the jurisdictional risks of the correspondent banking relationship.

Where Westpac identified significant regulatory action against a correspondent bank for AML/CTF and sanctions failures, it did not assess whether those failures impacted upon the inherent risk of the banking services provided by Westpac to the correspondent bank.

Westpac did not carry out an appropriate assessment of the likelihood and impact of the inherent ML/TF risks it reasonably faced with respect to each correspondent banking relationship.

Westpac did not appropriately consider risk mitigation factors to determine the residual ML/TF risk levels of each correspondent banking relationship.

14. By reason of paragraph 13, Westpac has contravened s 98(1) of the Act on 47 occasions.

Particulars

Section 98(1) of the Act is a civil penalty provision: s 98(7) of the Act.

Due diligence assessments

15. On and from 20 November 2013, a **due diligence assessment** under s 98(2) of the Act was warranted by the risks identified in the preliminary risk assessments carried out by Westpac under s 98(1) of the Act with respect to each of the correspondent banking relationships.

Particulars

Each of the correspondent banking relationships involved higher ML/TF risks that required a more detailed due diligence assessment. These risks included, but were not limited to, nested arrangements and relationships with other correspondent banks in sanctioned or high risk jurisdictions, significant regulatory action by overseas regulators, and high risk customers.

At all times, Westpac proceeded on the basis that a due diligence assessment was required with respect to each of the correspondent banking relationships and purported to carry out due diligence assessments.

Section 98(2) of the Act.

16. On and from 20 November 2013, Westpac has failed to carry out regular assessments of the matters required by the Rules with respect to each correspondent banking relationship, contrary to s 98(2) of the Act.

Particulars

During the relevant period, Westpac carried out 47 assessments with respect to the 16 correspondent banks. However:

- Westpac did not regularly assess the nature of each correspondent bank's business, including its products and customer base: r 3.1.4(1) and r 3.1.2(1) of the Rules.
- Westpac did not regularly assess the adequacy of each correspondent bank's controls and internal AML/CTF compliance practices: r 3.1.4(1) and r 3.1.2(6) of the Rules.
- Westpac did not regularly assess the nature of each correspondent bank's ongoing business relationship with Westpac, including the types of transactions carried out as part of that relationship: r 3.1.4(3) of the Rules.
- Westpac did not identify and assess material changes to the ongoing business relationship with each correspondent bank: r 3.1.4(4) of the Rules.

These failures arose out of the following circumstances:

Failure to follow due diligence procedures

Westpac did not follow its own due diligence assessment policy and procedures with respect to the assessment of each correspondent banking due diligence relationship, for example, by:

- approving assessments that had identified nested arrangements without explanation or consideration of mitigating factors.
- approving assessments of correspondent banks that had dealings with sanctioned countries without explanation or consideration of mitigating factors.

- approving assessments that had identified other high ML/TF risks without explanation or consideration of mitigating factors.

The Correspondent Banking Standard and other Policies

At all relevant times, Westpac's Correspondent Banking Standard provided that the following factors must be considered when monitoring a correspondent banking relationship: (a) anomalies in behaviour (b) sudden and / or significant changes in transaction activity by value or volume (c) hidden relationships (d) monitoring of activity between accounts and customers (e) high risk geographies and entities (f) significant increases of activity or consistently high levels of activity with (to or from) higher risk geographies and/or entities (g) other money laundering behaviours such as structuring of transactions under reporting thresholds or transactions in round amounts.

Westpac's policy was that it did not provide services to customers and jurisdictions legally proscribed by relevant international and local jurisdictional legislation, such as individuals listed by the Department of Foreign Affairs and Trade and the United States Office of Foreign Assets Control. Given the higher ML/TF risks associated with third-party remittance services, in the ordinary course of business Westpac's policy from 2015 was to not provide foreign exchange or international transfer services to remittance providers except where it determined that exceptional circumstances applied.

Westpac had no appetite for payable-through accounts and limited appetite for nested arrangements.

Westpac's failures to follow its own standards and risk appetite

Westpac did not implement appropriate procedures to monitor compliance with these standards and policies. As a result, it failed to appropriately identify or consider these matters when it carried out a detailed due diligence assessment of the nature of the ongoing business relationship with each correspondent bank. For example:

- Westpac's Due Diligence Workbooks did not include any questions about the nature, volume or purpose of transactions with correspondent banks until 2017.
- Westpac's policies and procedures provided for a trigger warning system based on Factiva and World Check searches. Under these policies and procedures, a warning may trigger a due diligence assessment of a correspondent banking relationship.
- Trigger events were not appropriately monitored for all correspondent banks. Trigger reports and any analysis of these reports were not appropriately documented. There was a lack of quality assurance review over these processes.

- Correspondent banks that were placed on a 'watching brief' after multiple trigger events were not subject to additional or enhanced due diligence as required.
- Trigger events in Westpac's due diligence assessment policy and procedures were not designed to identify material changes in the nature of the ongoing business relationship, including the types of transactions carried on as part of that relationship.
 - It was not until August 2017 that Westpac started implementing automated transaction monitoring of correspondent bank Vostro accounts. The detection scenarios that have been applied on and from August 2017 do not address all of the inherent risks involved with correspondent banking and are not resulting in appropriate alerts. The Vostro account transaction monitoring alerts investigation process does not always operate effectively. There are no processes to ensure that alerts informed the correspondent banking framework, including trigger events and escalation processes.
- Monitoring over Vostro accounts is a key requirement of correspondent banking obligations. In the absence of appropriate monitoring of Vostro accounts, Westpac was not in a position to understand the ML/TF risks posed by its correspondent banking relationships. Nor was it in a position to understand the ML/TF risks of the payments flowing through the Vostro accounts. From at least mid-2012, senior executives within Westpac's risk and compliance function agreed that transaction monitoring of Vostro accounts needed to be considered as a control. By mid-2013, these executives knew it was industry practice to apply automated transaction monitoring to Vostro accounts (as particularised in paragraph 83).
- Westpac did not have appropriate processes in place to monitor the potential for additional risks arising from the sale of new products to correspondent banks.
 - Westpac did not identify those transactions that were facilitated through the ACM arrangements by remitters.
 - Westpac did not have appropriate processes in place to identify non-SWIFT payment instructions that did not include originator (payer) or beneficiary information (payee), or that appeared to be inconsistent with the purpose of the arrangement.
- There was lack of independent quality assurance review over the correspondent banking due diligence assessment process, due to unclear defined quality assurance roles and responsibilities.

17. By reason of paragraphs 15 and 16, Westpac has contravened s 98(2) of the Act on 47 occasions.

Particulars

Section 98(2) of the Act is a civil penalty provision: s 98(7) of the Act.

THE IFTI REPORTS - CONTRAVENTIONS OF S 45 OF THE ACT

18. If a person is the recipient of an international funds transfer instruction transmitted into Australia (**incoming IFTI**), the person must, within 10 business days after the day on which the instruction was received by the person, give the AUSTRAC CEO a report about the instruction.

Particulars

Subsections 45(1)(a)(ii) and (2) of the Act.

An international funds transfer transaction, or **IFTI**, is defined by s 5 and s 46 of the Act.

An instruction is an incoming IFTI if it satisfies the requirements in item 2 in the table in s 46 of the Act.

An electronic funds transfer instruction is relevantly defined in s 8(1) of the Act.

19. If a person is the sender of an international funds transfer instruction transmitted out of Australia (**outgoing IFTI**), the person must, within 10 business days after the day on which the instruction was sent by the person, give the AUSTRAC CEO a report about the instruction.

Particulars

Subsections 45(1)(a)(i) and (2) of the Act.

An international funds transfer transaction is defined by s 5 and s 46 of the Act.

An instruction is an outgoing IFTI if it satisfies the requirements in item 1 in the table in s 46 of the Act.

An electronic funds transfer instruction is relevantly defined in s 8(1) of the Act.

Incoming IFTIs reported late and without payer details

The ACM arrangements with the correspondent banks

20. From 5 November 2013 to 3 September 2018, Westpac was the recipient of 19,427,710 international funds transfer instructions transmitted into Australia within the meaning of item 2 of the table in s 46 of the Act, totalling over \$11 billion.

Particulars

These instructions were received under the non-SWIFT ACM arrangements with either Bank A, Bank B, Bank C, or Bank D (the **ordering institutions**).

21. Each instruction identified in paragraph 20 was an electronic funds transfer instruction for the purposes of s 8(1) of the Act.

Particulars

The customer (the **payer**) instructed each ordering institution to transfer money controlled by the payer to a third person (the **payee**).

on the basis that the transferred money would be made available to the payee by a beneficiary institution.

Each ordering institution was a bank for the purposes of s 8(1)(c)(ii) of the Act.

The transfer instruction was passed on wholly or partly by electronic means.

Each beneficiary institution was either an ADI, bank, building society or credit union: s 8(1)(d) of the Act.

22. Each instruction identified in paragraph 20 was accepted at or through a permanent establishment of the ordering institution in a foreign country.
23. The transferred money relating to each instruction identified in paragraph 20 was made available to the payee at or through a permanent establishment of the beneficiary institution in Australia.
24. By reason of the matters pleaded at paragraphs 20 to 23, Westpac was required to give the AUSTRAC CEO a report of each instruction identified in paragraph 20 within 10 business days after the date the instruction was received.
25. In the period from 22 October 2018 to 20 September 2019, Westpac gave the AUSTRAC CEO a report of each instruction identified in paragraph 20.

Particulars

The reports related to instructions to transfer a total of \$11.138 billion into Australia for the period 5 November 2013 to 3 September 2018 (the **late IFTIs**).

26. By reason of the matters pleaded at paragraphs 20 and 25 above, Westpac did not give the AUSTRAC CEO a report of each instruction identified in paragraph 20 within 10 business days after its receipt, in contravention of s 45(2) of the Act.

Particulars

The late IFTIs represent 72.12% of all incoming IFTIs received by Westpac for the period 5 November 2013 to 3 September 2018. The late IFTIs from Bank A alone represented 71.94% of all incoming IFTIs received by Westpac for the period 5 November 2013 to 3 September 2018.

As the payments were predominantly low value, the late IFTIs were 0.72% of the dollar value of all incoming IFTIs for this period.

19,378,512 million late IFTIs related to Bank A and 36,251 late IFTIs related to Bank B. The Bank A and Bank B IFTIs were not reported on time because Westpac failed to ensure that these instructions were exported to the system used for IFTI reporting. There was no assurance process in place to detect this failure.

12,947 late IFTIs related to Bank D, and Bank C. The Bank D and Bank C IFTIs were not reported on time because a systems error that prevented IFTI processes from running to completion on non-banking days was not detected.

27. Of the late IFTI reports pleaded in paragraph 25, 2,732,892 reports did not contain all such information relating to the matter as was specified by the Rules.

Particulars

Rule 16.3(1) of the Rules requires the name of the payer to be included in the report of an incoming IFTI. Further identifying information about the payer must also be included in reports about instructions within the meaning of s 70(b) of the Act, such as the payer's full residential or business address or an identification number given to the payer by the ordering institution: r 16.3(3)(a)(i).

2,732,686 IFTI reports relating to the Bank A ACM arrangements named Payment Processor A as the payer. Payment Processor A is a payments processor and was not the payer. Westpac is unable to identify the payer with respect to each of these instructions. The total value of these instructions was \$1,478,817,172.

206 IFTI reports relating to the Bank A ACM arrangements included a series of numbers as the 'payer' name. Westpac is unable to identify the payer with respect to each of these instructions. The total value of these instructions was \$28,563.

Section 45(3)(b) of the Act and the definition of 'payer' in s 5 and s 8(1)(a) of the Act.

28. By reason of the matters pleaded at paragraphs 24, 26 and 27, Westpac contravened s 45(2) of the Act on 19,427,710 occasions.

Particulars

Section 45(2) of the Act is a civil penalty provision: s 45(4) of the Act.

The arrangements with Ordering Institution A

29. From 3 October 2016 to 19 November 2018, Westpac was the recipient of 61,717 international funds transfer instructions transmitted into Australia within the meaning of item 2 of the table in s 46 of the Act, totalling over \$100 million.

Particulars

These instructions were received under the Ordering Institution A arrangements.

30. Each instruction identified in paragraph 29 was an electronic funds transfer instruction for the purposes of s 8(1) of the Act.

Particulars

The customer of Ordering Institution A (the **payer**) instructed Ordering Institution A (the **ordering institution**) to transfer money controlled by the payer to a third person (the **payee**) on the basis that the transferred money would be made available to the payee by a beneficiary institution.

Ordering Institution A was an ordering institution for the purposes of s 8(1) of the Act.

The transfer instruction was passed on wholly or partly by electronic means.

Each beneficiary institution was either an ADI, bank, building society or credit union: s 8(1)(d) of the Act.

31. Each instruction identified in paragraph 29 was accepted at or through a permanent establishment of Ordering Institution A in a foreign country.
32. The transferred money relating to each instruction identified in paragraph 29 was made available to the payee at or through a permanent establishment of the beneficiary institution in Australia.
33. By reason of the matters pleaded at paragraphs 29 to 32, Westpac was required to give the AUSTRAC CEO a report of each instruction identified in paragraph 29 within 10 business days after the date the instruction was received.
34. In the period from 27 March 2019 to 20 September 2019, Westpac gave the AUSTRAC CEO a report of each instruction identified in paragraph 29.

Particulars

The reports related to instructions to transfer a total of \$101,333,384 into Australia for the period 3 October 2016 to 19 November 2018.

35. By reason of the matters pleaded at paragraphs 29 and 34 above, Westpac did not give the AUSTRAC CEO a report of each instruction identified in paragraph 29 within 10 business days after its receipt, in contravention of s 45(2) of the Act.
36. By reason of the matters pleaded at paragraphs 33 and 35, Westpac contravened s 45(2) of the Act on 61,717 occasions.

Particulars

Section 45(2) of the Act is a civil penalty provision: s 45(4) of the Act.

Outgoing IFTIs reported late

The Bank B outward ACM arrangements

37. From 5 November 2013 to 1 February 2019, Westpac was the sender of 10,771 international funds transfer instructions transmitted out of Australia within the meaning of item 1 of the table in s 46 of the Act, totalling over \$707 million.

Particulars

These instructions were sent under the non-SWIFT ACM arrangements with Bank B.

38. Each instruction identified in paragraph 37 was an electronic funds transfer instruction for the purposes of s 8(1) of the Act.

Particulars

The customer (the **payer**) instructed Westpac (the **ordering institution**) to transfer money controlled by the payer to a third person (the **payee**) on the basis that the transferred money would be made available to the payee by Bank B (the **beneficiary institution**).

Westpac was an ADI for the purposes of s 8(1)(c)(i) of the Act.

The transfer instruction was passed on wholly or partly by electronic means.

Bank B was a bank: s 8(1)(d) of the Act.

39. Each instruction identified in paragraph 37 was accepted at or through a permanent establishment of Westpac in Australia.
40. The transferred money relating to each instruction identified in paragraph 37 was made available to the payee at or through a permanent establishment of Bank B in a foreign country.
41. By reason of the matters pleaded at paragraphs 37 to 40, Westpac was required to give the AUSTRAC CEO a report of each instruction identified in paragraph 37 within 10 business days after the date the instruction was sent.
42. On 4 October 2019, Westpac gave the AUSTRAC CEO a report of each instruction identified in paragraph 37.

Particulars

The reports related to instructions to transfer a total of \$707,409,296 out of Australia for the period 5 November 2013 to 1 February 2019.

43. By reason of the matters pleaded at paragraphs 37 and 42 above, Westpac did not give the AUSTRAC CEO a report of each instruction identified in paragraph 37 within 10 business days after the date it was sent, in contravention of s 45(2) of the Act.
44. By reason of the matters pleaded at paragraphs 41 and 43, Westpac contravened s 45(2) of the Act on 10,771 occasions.

Particulars

Section 45(2) of the Act is a civil penalty provision: s 45(4) of the Act.

The LitePay arrangements

45. Between February 2017 and June 2019, Westpac was the sender of 2,314 international funds transfer instructions transmitted out of Australia within the meaning of item 1 of the table in s 46 of the Act.

Particulars

These instructions were sent under the LitePay arrangements with the Bank Q, Bank C and Bank B.

46. Each instruction identified in paragraph 45 was an electronic funds transfer instruction for the purposes of s 8(1) of the Act.

Particulars

The customer (the **payer**) instructed Westpac (the **ordering institution**) to transfer money controlled by the payer to a third person (the **payee**) on the basis that the transferred money would be made available to the payee by the Bank Q, Bank C, Bank B or another financial institution (the **beneficiary institution**).

Westpac was an ADI for the purposes of s 8(1)(c)(i) of the Act.

The transfer instruction was passed on wholly or partly by electronic means.

The Bank Q, Bank C and Bank B or other financial institution was a bank: s 8(1)(d) of the Act.

47. Each instruction identified in paragraph 45 was accepted at or through a permanent establishment of Westpac in Australia.
48. The transferred money relating to each instruction identified in paragraph 45 was made available to the payee at or through a permanent establishment of the Bank Q, Bank C and Bank B or another financial institution in a foreign country.
49. By reason of the matters pleaded at paragraphs 45 to 48, Westpac was required to give the AUSTRAC CEO a report of each instruction identified in paragraph 45 within 10 business days after the date the instruction was sent.
50. At no time has Westpac given the AUSTRAC CEO a report of each instruction identified in paragraph 45 for the purposes of s 45 of the Act.
51. By reason of the matters pleaded at paragraphs 45 and 50 above, Westpac did not give the AUSTRAC CEO a report of each instruction identified in paragraph 45 within 10 business days after the date it was sent, in contravention of s 45(2) of the Act.
52. By reason of the matters pleaded at paragraphs 49 and 51, Westpac contravened s 45(2) of the Act on 2,314 occasions.

Particulars

Section 45(2) of the Act is a civil penalty provision: s 45(4) of the Act.

INFORMATION ABOUT THE ORIGIN OF TRANSFERRED MONEY – CONTRAVENTIONS OF PART 5

The required transfer information - contraventions of s 64(7)(f) of the Act

53. In the period from 1 January 2014 to 2019, Westpac was the sender of 7,639 international funds transfer instructions transmitted out of Australia within the meaning of item 1 of the table in s 46 of the Act totalling over \$590 million.

Particulars

These instructions related to the non-SWIFT ACM arrangements with Bank B.

The total dollar value of these instructions was \$590,178,866.

54. In respect of each instruction identified in paragraph 53, Westpac was the interposed institution in the funds transfer chain that passed on the instruction at or through its permanent establishment in Australia.

Particulars

Section 64(2) of the Act.

Sections 64(7)(a) and (b)(ii) of the Act.

55. Each instruction identified in paragraph 53, was accepted by the ordering institution at or through a permanent establishment of the ordering institution in Australia.

Particulars

Section 64(2) of the Act.

Section 64(7)(c)(i) of the Act.

56. In respect of each instruction identified in paragraph 53, some or all of the required transfer information was passed on to Westpac by another institution in the funds transfer chain.

Particulars

Section 64(7)(d) of the Act.

57. In respect of each instruction identified in paragraph 53, before passing it on to another institution in the funds transfer chain, Westpac failed to include in the instruction so much of the required transfer information as it had been given as pleaded in paragraph 56 in the instruction.

Particulars

Sections 64(7)(f) and 70 of the Act.

The other institution was denied information to trace the origin of the transferred money.

58. By reason of paragraphs 53 to 57, Westpac contravened s 64(7)(f) of the Act on 7,639 occasions.

Particulars

Section 64(7) of the Act is a civil penalty provision: s 64(8) of the Act.

The required transfer information - contraventions of s 64(6) of the Act

59. In the period from 1 January 2014 to 2019, Westpac was the sender of 2,882 international funds transfer instructions transmitted out of Australia within the meaning of item 1 of the table in s 46 of the Act totalling just under \$103.8 million.

Particulars

These instructions related to the non-SWIFT ACM arrangements with Bank B.

The total dollar value of these instructions was \$103,797,095.

60. In respect of each instruction identified in paragraph 59, Westpac was the ordering institution in the funds transfer chain.

Particulars

Section 64(2) of the Act.

Sections 64(6)(a) of the Act.

61. Westpac accepted each instruction identified in paragraph 59 at or through its permanent establishment in Australia.

Particulars

Section 64(6)(b) of the Act.

62. In respect of each instruction identified in paragraph 59, Westpac had obtained the complete payer information.

Particulars

Sections 64(3) and 71 of the Act.

63. In respect of each instruction identified in paragraph 59, before passing it on to another institution in the funds transfer chain, Westpac failed to include the required transfer information in the instruction.

Particulars

Sections 64(6) and 70(c) of the Act.

The other institution was denied information to trace the origin of the transferred money.

64. By reason of paragraphs 59 to 63, Westpac contravened s 64(6) of the Act on 2,882 occasions.

Particulars

Section 64(6) of the Act is a civil penalty provision: s 64(8) of the Act.

MAKING AND RETAINING RECORDS - CONTRAVENTIONS OF S 115 OF THE ACT

Retention of records about electronic funds transfer instructions – section 115

65. At all relevant times, the non-SWIFT ACM arrangements with Bank A (the **Bank A arrangements**) involved Bank A passing on to Westpac multiple-institution person-to-person electronic funds transfer instructions (the **transfer instructions**) to which s 64 of the Act applied.

Particulars

Sections 8(1) and 115(1)(a) of the Act.

66. From January 2011, in relation to 3,516,238 transfer instructions passed on to Westpac by Bank A under the Bank A arrangements:
- a. Bank A was the ordering institution in the funds transfer chain;
 - b. Westpac was the interposed person in the funds transfer chain;
 - c. Westpac passed on the transfer instruction, at or through a permanent establishment in Australia, to another financial institution in the funds transfer chain;
 - d. the transferred money was made available at or through a permanent establishment of the beneficiary institution in Australia;
 - e. Bank A passed on some or all of the required transfer information to Westpac;
 - f. the transfer instruction was accepted by Bank A at or through a permanent establishment in a foreign country; and
 - g. the transfer instruction was passed on to Westpac by a permanent establishment of Bank A in a foreign country.

Particulars

Section 115(1)(b) to (g) of the Act.

67. Westpac made a record of so much of the required transfer information as was passed on to Westpac by Bank A with respect to each transfer instruction pleaded in paragraph 66.

Particulars

Bank A's unique transaction reference number was included in each original payment instruction passed from Bank A to Westpac.

Westpac initially kept a copy of each original payment instruction received under the Bank A arrangements.

Sections 70, 72 and 115(2)(a) of the Act.

68. Westpac did not retain the records pleaded in paragraph 67, or a copy of these records, for 7 years after each transfer instruction was passed on to Westpac by Bank A.

Particulars

The backup solution in Westpac's record keeping system was not correctly configured, resulting in the loss of records.

As a result, Westpac did not retain a copy of Bank A's unique reference number.

69. By reason of paragraphs 65, 66, 67 and 68, Westpac contravened s 115(2) on 3,516,238 occasions.

Particulars

Section 115(2) of the Act is a civil penalty provision: s 115(3) of the Act.

AML/CTF PROGRAM - CONTRAVENTIONS OF S 81 OF THE ACT

70. A reporting entity must not commence to provide a designated service to a customer unless the reporting entity has adopted and maintains an anti-money laundering and counter-terrorism financing program (**AML/CTF program**), within the meaning of s 83 of the Act, that applies to the reporting entity.

Particulars

Sections 81(1) and 83 of the Act and r 1.2.1 of the Rules.

71. An AML/CTF program includes a joint AML/CTF program.

Particulars

Section 83 of the Act.

72. A joint AML/CTF program is:

- (a) a written program that applies to each reporting entity that belongs to a particular designated business group (**DBG**); and
- (b) divided into Part A (general) and Part B (customer identification).

Particulars

Section 85 of the Act.

73. Part A of a joint AML/CTF program is a part:

- (a) the primary purpose of which is to:

- (i) identify; and
- (ii) mitigate; and
- (iii) manage;

the risk each of those reporting entities within a DBG may reasonably face that the provision by the relevant reporting entity of designated services at or through a permanent establishment of the relevant reporting entity in Australia might (whether inadvertently or otherwise) involve or facilitate:

- (iv) money laundering; or
- (v) financing of terrorism (**ML/TF risk**).

Particulars

Section 85(2)(a) of the Act.

74. Part A of a joint AML/CTF program must comply with the Rules.

Particulars

Section 85(2)(c) of the Act.

75. For the period on and from 20 November 2013, Westpac has adopted and maintained a Part A joint AML/CTF program (the **Part A Program**), together with a number of other entities within the corporate group.

Particulars

The Part A Program is comprised of:

- a. version 3.3 effective from 22 May 2013 to 10 February 2015;
- b. version 4.0 effective from 11 February 2015 to 26 January 2016;
- c. version 4.1 effective from 27 January 2016 to 6 March 2018;
- d. version 1.0 effective from 7 March 2018 to 7 March 2018;
- e. version 1.1 effective from 8 March 2018 to 1 May 2018;
- f. version 1.2 effective from 2 May 2018 to 13 August 2018; and
- g. version 1.3 effective on and from 14 August 2018.

The failure to identify, mitigate and manage ML/TF risks – s 81

76. From 20 November 2013, the Part A Program was not an AML/CTF Program that:
- a. had the primary purpose of identifying, mitigating and managing the risk that Westpac may reasonably face that the provision of designated services at or through a permanent establishment in Australia might (whether inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism; and
 - b. complied with the requirements that were specified in the Rules, insofar as they required risk-based systems and controls to be put in place.

Particulars

Sections 85(2)(a) and (c) of the Act and r 9.1.3, 9.1.4, 9.1.5, and rules 15.4 to 15.7.

Westpac's Part A Program included procedures for ML/TF Risk Assessments: Section 6 of Part A of versions 3.3 and 4.0, and Section 7 of Part A of version 4.1, Section 4 of versions 1.0, 1.1, 1.2 and 1.3 of the Part A Program.

For the purposes of Part A, further procedures were set out in the Westpac Group ML/TF Risk Assessment Methodology Standard, as amended from time to time.

Collectively, these sections of the Part A Program and the Westpac Group ML/TF Risk Assessment Methodology Standard are referred to as the **ML/TF risk assessment procedures**.

The ML/TF risk assessment procedures did not include appropriate risk-based systems and controls that had the primary purpose of identifying, mitigating and managing the ML/TF risks reasonably faced by Westpac and that met the requirements of the Rules: ss 85(2)(a) and 85(2)(c) of the Act.

On and from mid-2015, the rating for Group AML/CTF controls has been predominantly unsatisfactory and out of appetite. Significant drivers of these ratings included compliance and risk issues in Westpac Institutional Banking (**WIB**) and inadequacies with Westpac's financial crime system, Detica.

Westpac failed to investigate and remediate the gaps and inadequacies in its risk-based systems and controls in a timely manner. Nor did it appropriately prioritise the Detica strategic review and update.

By May 2016, the Head of Compliance (WIB) formed concerns that Westpac's product risk assessment procedures did not specifically address the ML/TF risks that needed to be addressed and did not 'go far enough in assessing the risks and controls from an ML/TF perspective'. In particular, there was inadequate visibility over higher ML/TF risks.

In August 2017, Westpac began the process of re-assessing its AML/CTF control environment across the Group 'in response to the changing regulatory environment in Australia'. This process identified systemic issues with Westpac's ML/TF risk management models and risk-based controls.

To illustrate, as at 2QFY17, the total number of issues on Westpac's Incident Management System, JUNO, that related to AML/CTF was 43. As at 3QFY17, 77 AML/CTF related issues were open. By February 2018, 107 AML/CTF issues were open, 27 of them rated high risk. By 4QFY18, open AML/CTF related issues totalled 116.

The failure to carry out and maintain appropriate ML/TF risk assessments was at the heart of these JUNO issues, as controls were not aligned to risks and statutory requirements.

As a first step in re-assessing its AML/CTF controls, a WIB Financial Crime Deep Dive Assessment in August 2017 identified incomplete product assessments and the need to enhance the risk assessment framework across product, channel and customer.

In December 2017, Westpac commenced the roll-out of a revised approach across the Group to assessing the ML/TF risks associated with its products and channels. From May 2018, this was reflected in updates to the Westpac Group ML/TF Risk Assessment Methodology Standard. In addition, from May 2018, the risk-based systems and controls designed to mitigate ML/TF risks were required to be documented and recorded on a central register maintained by the Group MLRO.

Previously, product and channel risk assessments had been undertaken for new products and processes across the enterprise, but they were not updated on a periodic basis nor centrally located.

Further, the product risk assessment process did not require consideration of all relevant risks and controls from an ML/TF perspective. As a result across the Group, the approach to risk assessments and controls had been inconsistent.

The application of the new Product and Channel Risk Assessment Methodologies was complete for Westpac's Australian business in mid-2018. Approximately 78 channel and 137 product risk

assessments were carried out as part of the roll-out of the new risk assessment methodologies.

As a result of carrying out the revised product and channel risk assessments and as a result of a Group Audit of the Part A Program in early 2018, Westpac identified a number of AML/CTF controls that were not appropriately risk-based.

By February 2018, Group Audit had concluded that the Management Control was 'unsatisfactory' with respect to Westpac's Part A Program. Group Audit noted that the Part A Program had not been subject to independent review for several years, noting that the last review conducted in September 2013 was not an independent review.

By July 2018, a Financial Crime Work Program was prepared for the Group across five work streams:

- Stream 1: Uplift of the Financial Crime Policy Framework;
- Stream 2: Review of Financial Crime Risk Models and Risk Based Controls;
 - Stream 3: Completeness of Financial Crime Data;
- Stream 4: Enhancement of Financial Crime Operational Processes; and
- Stream 5: Enhanced Assurance, Governance and the remediation of known issues.

By October 2018, the relevant Board and Executive committees were advised that Westpac's 'maturity status in managing financial crime had moved from 'ad hoc' to 'reactive'. The committees were advised that Westpac needed 'to recognise that the management of Financial Crime requires a broader and more comprehensive strategic response'. Westpac decided to reframe its approach 'towards a long term view of enhancement and risk mitigation, building to sustainable solutions over a 3-5 year timeframe'. The first step in this process was to put in place a Financial Crime Strategic Plan, to be supported by an integrated, group wide, and substantially funded Financial Crime Risk Remediation Program.

A Financial Crime Strategic Plan was put before the Board Risk and Compliance Committee on 2 February 2019 for approval. This Plan was endorsed by the Committee on 6 March 2019. The design and development of a 'Financial Crime Risk Capability Framework' is one of the central outcomes to be achieved by the Plan. Many aspects of the Plan that deal with risk assessment capability are yet to be fully implemented.

In formulating the Financial Crime Strategic Plan, Westpac identified four factors that had impacted upon its risk management capability:

- A tendency to federated, division by division, absent a centrally driven, expertise led, Group policy driven view,

resulting in an inconsistent enterprise wide financial crime risk management view.

- A lack of clear ownership for some capabilities, a lack of standardised process mapping and in turn a lack of an end-to-end view of ML/TF risks and controls.
- Incomplete or inconsistent system architecture and data ownership views.
- The need to sharpen its approach to financial crime risk appetite and risk assessment across business operations (including products, platforms, channels and jurisdictions) and strategic investments.

The systemic failures in Westpac's Part A Program are reflected in its failure to appropriately identify, mitigate and manage the ML/TF risks of the designated services provided through the ACM and OSBSB arrangements.

The ACM arrangements

77. On and from 20 November 2013, Westpac did not maintain a Part A Program that identified, mitigated and managed the risk that Westpac may reasonably face that the provision of designated services in Australia through the ACM arrangements might (whether inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism.

Particulars

The designated services and the accounts

At all times since 20 November 2013, direct entry deposits from a foreign source could be made into Westpac accounts through the ACM arrangements. The direct entry deposits involved item 3 and item 30, table 1, s 6 of the Act, designated services.

These payments were settled through Westpac accounts held in the name of the relevant correspondent banks: item 3, table 1, s 6 of the Act, designated services. These accounts were Vostro accounts.

At all times until February 2019, one correspondent bank maintained two accounts with Westpac, in its own name, each of which was used exclusively to facilitate payments for two large multinationals and their related companies: item 3, table 1, s 6 of the Act, designated services. Each multinational accessed the accounts through the banking logon provided by the correspondent bank.

The ML/TF risks

The ACM arrangements enabled transactions on Westpac accounts with any foreign jurisdiction. Some of the correspondent banks with ACM arrangements had nested relationships with other correspondent banks including banks in sanctioned or high risk jurisdictions.

In 2014, Bank B disclosed that it had correspondent banking relationships with a number of high risk or sanctioned countries including Democratic Republic of the Congo, Iraq, Lebanon, Libya, Ukraine and Zimbabwe.

Westpac had limited or no visibility over the source of funds deposited into Westpac accounts.

There were no caps or limits on the volume and/or value of cross-border transactions through these arrangements.

Non-SWIFT channels also carried higher ML/TF risks due to reduced payment transparency, the lack of sanctions and ML/TF payment screening.

Undue reliance was placed on correspondent banking due diligence as a 'product specific control'.

The non-SWIFT ACM arrangements involved Westpac processing international transfers on behalf of customers of the relevant correspondent banks it did not directly understand. Westpac relied on these correspondent banks to adhere to Westpac's Correspondent Banking Risk Appetite Statement, but did not have appropriate processes to monitor this.

The ML/TF risk assessment

Westpac's product risk assessment processes did not require appropriate consideration of all ML/TF risks and controls, and were not consistently applied.

At no point did Westpac carry out any assessment of the ML/TF risks of the ACM arrangements with Bank A, Bank D, Bank E or Bank F.

In April 2016, November 2016 and December 2017, Westpac carried out an assessment of the ML/TF risks associated with providing designated services through the ACM arrangements with Bank C. The assessment identified that the underlying source of proceeds and beneficial owners was partially concealed. The risk was assessed as medium.

In December 2017 and February 2018, Westpac carried out an assessment of the ML/TF risks associated with providing designated services through the ACM arrangements with Bank B. The assessment identified that the underlying source of proceeds and beneficial owners was totally concealed. The risk was assessed as high.

These assessments did not appropriately consider all of the ML/TF risks.

In addition to the failure to appropriately assess ML/TF risks, at no stage has Westpac introduced appropriate risk-based systems and controls to mitigate and manage the higher ML/TF risks it reasonably faces by providing designated services through the ACM arrangements.

On and from 1 January 2014 at least \$3.1 billion has entered Australia and was deposited into Westpac accounts through the ACM arrangements, without appropriate identification, mitigation and management of the ML/TF risks.

In October 2018, Westpac decided to exit some of the ACM arrangements due to the complex pre-payment monitoring solutions required to ensure that the correspondent banks adhered to the Westpac Correspondent Banking risk appetite statement and due to the issues identified with data quality for IFTI reporting and the resources required to monitor and manage this effectively over time.

The OSBSB arrangements

78. On and from 20 November 2013, Westpac did not maintain a Part A Program that identified, mitigated and managed the risk that Westpac may reasonably face that the provision of designated services in Australia through the OSBSB arrangements might (whether inadvertently or otherwise) involve or facilitate money laundering or financing of terrorism.

Particulars

In March 2011 and in November 2013, Bank B and Bank J, respectively, opened a Westpac 'settlement' or corporate transactional account which was allocated an OSBSB. Each correspondent bank maintains customer accounts on its own ledger using the OSBSB allocated by Westpac. Each customer account operates as a virtual account or a sub-account of the correspondent bank's account with Westpac. The correspondent bank's customers are referred to as the **OSBSB customers**.

The OSBSB arrangements facilitate domestic and cross-border transfers of funds, on behalf of the OSBSB customers. Transactions on the settlement account are designated services: item, 3, table 1, s 6 of the Act.

Westpac has limited or no visibility of the identity or source of funds of the OSBSB customers. Nor does it know the nature of the business relationship between the OSBSB customers and the correspondent bank.

The Bank B OSBSB arrangements involved possible payable-through services.

The corporate transactional accounts are cash-like, offering high liquidity and easy negotiable transfer. There are no deposit limits.

Anyone can transfer funds into each settlement account by way of electronic funds transfer or by cash or cheque deposit at a Westpac branch, to be credited to an OSBSB customer. Westpac does not collect and verify information about the identity of a person depositing cash under \$10,000 into the settlement accounts. Prior to September 2019, a Westpac teller could override the procedures to collect and verify information about the depositor of cash of \$10,000 or more.

On 21 December 2017, Westpac carried out an assessment on a 'corporate transactional account' known as the 'Working Capital Account'. This product included features of the arrangements offered to Bank B and Bank J.

This assessment did not appropriately consider all relevant ML/TF risks or possible mitigating controls.

On 1 October 2019, Westpac carried out an assessment on the 'Working Capital account' that included features of the arrangements offered to Bank B and Bank J. This assessment noted that:

- The underlying source of proceeds and beneficial owners are partially concealed.
- Funds can be transferred to unidentified third parties both domestically and internationally through RTGS, OTT and Direct Entry.
- Unidentified third parties could deposit funds directly into the account via the branch network.
 - The product is highly liquid and there are no limits on deposits.
- The product allows for cross-border activity including to high risk jurisdictions; and
 - The product could be used for international trade.

In spite of identifying these higher ML/TF risks, Westpac has not introduced appropriate risk-based systems and controls to mitigate and manage the higher ML/TF risks it reasonably faces by providing designated services through Bank B and Bank J accounts.

79. By reason of the matters pleaded at paragraphs 76 to 78, the Part A Program does not comply with s 85(2)(a) and (c) of the Act.

Particulars

Rules 9.1.3, 9.1.4, 9.1.5, and rules 15.4 to 15.7 of the Rules.

80. By reason of the matters pleaded at paragraph 79, Westpac has failed to adopt and maintain an AML/CTF program within the meaning of s 81 of the Act.
81. By reason of the matters pleaded at paragraphs 6 and 80, Westpac has commenced to provide a designated service to a customer in contravention of s 81 of the Act on and from 20 November 2013.

Particulars

Section 81(1) of the Act is a civil penalty provision: s 81(2) of the Act.

Transaction monitoring program contraventions – s 81

82. Westpac's Part A Program included a transaction monitoring program.

Particulars

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 Program sets out the transaction monitoring program (the **transaction monitoring program**).

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 Business Units.

At all relevant times, customer transactions were monitored using the Detica automated transaction monitoring system (**TMS**), amongst other processes.

The Westpac Group's TMS 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.

Rules 15.4, 15.5, 15.6 and 15.7 of the Rules.

83. On and from 20 November 2013, the transaction monitoring program in Westpac's Part A Joint Program has not included appropriate risk-based systems and controls to monitor the transactions of customers and to identify transactions that may be suspicious for the purposes of s 41 of the Act.

Particulars

Rules 15.5, 15.6 and 15.7 of the Rules.

Westpac's transaction monitoring program is not appropriately risk-based. Remediation of this known and longstanding issue has been delayed pending resourcing for implementation of information system updates.

In late 2017, Westpac adopted a revised approach to assessing the ML/TF risks associated with its products and channels. The application of the new Product and Channel Risk Assessment Methodologies was complete for Westpac's Australian business in early 2018.

Informed by the application of the new Product and Channel Risk Assessment Methodology, Westpac identified products where:

- automated transaction monitoring had not been applied in circumstances where it should have been;
- the range of scenarios deployed under the transaction monitoring program required enhancement; or
- additional manual processes were required to better manage ML/TF risks.

By April 2018, Westpac had identified 120 products and associated systems that required an uplift in transaction monitoring capability.

13 high risk products required an immediate review of existing scenario coverage and monitoring through underlying accounts.

By April 2018, Westpac had identified that no formal program existed at a Group level, to routinely review and assure the accuracy or sufficiency of the existing detection scenarios and/or data feeds across all existing regulatory transaction monitoring.

In particular:

Westpac Institutional Banking

The scope of transaction monitoring in Australia is not sufficiently robust or fit for purpose for WIB. A number of product systems have been outside of the scope of the transaction monitoring program, including relating to international payments. The suite of detection scenarios are largely retail and cash focussed, designed to detect activity at the retail level rather than institutional level.

In August 2017, Westpac identified gaps in the coverage and suitability of detection scenarios in its transaction monitoring program covering WIB products and customers.

By no later than April 2018, Westpac had identified 4 high risk WIB products for which automated monitoring was not in place. One of these high risk products, Trade Finance, is yet to be subject to automated monitoring. Another high risk product was Vostro accounts.

The Vostro accounts

In July 2012, senior executives within Westpac's risk and compliance functions agreed that transaction monitoring of Vostro accounts needed to be considered as a control. In July 2013 these executives noted that 'whilst not the responsibility of the [correspondent banking] team, the bank should consider transaction monitoring as this is now becoming industry practice'.

It was not until August 2017 that Westpac started implementing automated transaction monitoring of correspondent bank Vostro accounts.

The detection scenarios applied on and from August 2017 do not have appropriate regard to the nature, size and complexity of the business and the ML/TF risks reasonably faced.

The detection scenarios did not enable Westpac to understand the nature of its ongoing business relationship with correspondent banks and whether transactions were within expectations and risk appetite.

The scenarios did not allow Westpac to understand the inherent ML/TF risks of the payment flows through the Vostro accounts.

As a result, Westpac failed to identify a significant number of ongoing transactions that were outside of its risk appetite.

The OSBSB arrangements

Transactions facilitated through the OSBSB arrangements were not appropriately monitored or filtered. Westpac had limited or no visibility over the OSBSB customers, their source of funds and other persons depositing cash into the account.

As a result, Westpac failed to identify a significant number of ongoing transactions that were outside of its risk appetite.

The ACM arrangements – payments into Westpac accounts

The detection scenarios to monitor international funds transfers did not apply to non-SWIFT IFTI instructions facilitated through the Direct Entry channel and therefore did not apply to payments made under the non-SWIFT ACM arrangements.

Westpac's TMS was not calibrated for appropriate ML/TF payment screening and monitoring through non-SWIFT channels. Given the characteristics of the non-SWIFT ACM instructions, these payments did not otherwise alert under Westpac's detection scenarios, regardless of the ML/TF risks posed.

Since January 2014, Westpac deposited over \$3.1 billion into Westpac accounts to effect international funds transfer instructions received under the ACM arrangements without appropriate monitoring

Westpac did not always obtain sufficient information about each international transfer instruction received under the ACM arrangements so as to enable it to appropriately monitor customers' transactions on a risk basis, including information about the payer, source of funds, the purpose of payment, the currency, possible sanctions issues and jurisdiction of origin. With a number of the arrangements, Westpac was only able to later infer the originator or purpose of transactions, for example by inferring that regular low value payments were consistent with pensions, royalties, income or investment returns.

Westpac facilitated payable-through services via the ACM2 arrangements with Bank B, even though such services were outside its risk appetite. Transactions through these arrangements were not subject to appropriate risk-based monitoring.

A significant number of payments processed through the ACM arrangements with Bank A related to the transfer of funds by payment processors that potentially carry higher ML/TF risks. Westpac is not in a position to identify the payer or purpose of payment with respect to a significant number of these instructions and could not monitor these transactions on a risk-basis. Payments facilitated by one foreign payment processor comprised approximately 40% of all payments from Bank A under the ACM arrangements in 2017 to 2018.

Appropriate pre-payment monitoring solutions were required to ensure that the correspondent banks adhered to the Westpac

Correspondent Banking risk appetite statement in relation to customers that were permitted to access the non-SWIFT ACM arrangements. Westpac did not implement appropriate pre-payment monitoring solutions.

Sanctions risk

Westpac took a 'risk-based' decision in 2009 not to apply sanctions screening to the ACM arrangements. Undue reliance was placed on correspondent banking due diligence questionnaires as a control to manage sanctions risk.

More broadly, there was no control to ensure the completeness and accuracy of data used for the purpose of global sanctions screening in the Detica system.

In August 2017 Westpac decided it would no longer process transactions involving a number of countries it deemed high risk, including Iraq, Iran, Syria, Libya, Sudan, North Korea, and Crimea/Sevastopol Regions of the Ukraine. Westpac placed undue reliance on its correspondent banking due diligence processes to monitor for such transactions.

In August 2016, Westpac New Zealand identified that payment instructions processed through the ACM arrangements with Bank D and Bank F, originating from London, had not been sanctioned screened. The compromised channels were temporarily suspended. However, it was not until October 2017 and May 2018 that sanctions screening was implemented, respectively, for these two arrangements.

Prior to 21 October 2017, Westpac did not screen the non-SWIFT instructions received under the ACM arrangements with Bank D for sanctions.

Prior to 2 May 2018, Westpac did not screen the non-SWIFT instructions received under the ACM arrangements with Bank F for sanctions.

Prior to 25 July 2018, Westpac did not screen the non-SWIFT instructions received under the ACM arrangements with Bank E for sanctions.

Prior to 4 September 2018, Westpac did not screen the non-SWIFT instructions received under the ACM arrangements with Bank A for sanctions.

At no time has Westpac applied sanctions screening with respect to international transfers received into Westpac accounts through the ongoing non-SWIFT ACM3 arrangements.

The LitePay platform and other low value payments to South East Asia, including the Philippines

AUSTRAC and the Commonwealth Attorney-General's Department have published detailed information about the child exploitation risks

associated with frequent low value payments to the Philippines and other jurisdictions. For example, the *Typologies and cases studies report 2013, Case study summary: Online Transactions led to convictions for child sex offences*, September 2015, and the *Report on the Statutory Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Associated Rules and Regulations* dated April 2016.

In December 2016, AUSTRAC provided reporting entities, including Westpac, with methodology briefs detailing the key indicators for the purchase of live-streaming child exploitation material, involving international funds transfers to the Philippines and South East Asia.

The Financial Action Task Force and the Asia/Pacific Group on Money Laundering have also published numerous typologies reports, most recently in July 2018 and August 2019.

The indicia of child exploitation risks involve customers with no apparent family ties to the Philippines/South East Asia, frequently remitting small sums of money to multiple beneficiaries in the Philippines/South East Asia within short time frames (the **child exploitation typologies**).

Under Westpac policy, the maintenance and development of new detection scenarios is an integral part of the transaction monitoring process. The development of new scenarios and logic is intended to be prioritised according to emerging typologies and advice and feedback from AUSTRAC and law enforcement agencies within Australia.

Contrary to the policy, Westpac did not have appropriate and timely regard to AUSTRAC and other guidance on child exploitation typologies.

By no later than May 2016, Westpac itself had assessed the heightened child exploitation risks associated with low value payments to the Philippines through LitePay and other channels.

In August 2016, Westpac introduced an automated detection scenario, applying to LitePay, to identify customers sending funds to multiple beneficiaries using the LitePay product. This scenario did not appropriately monitor for the known risks involved with the child exploitation typology, specifically, the indicia of frequent low value payments within a short period of time. By the end of February 2017, Westpac was aware that this scenario had not triggered.

In June 2018 this scenario was replaced with a detection scenario that was designed to identify customers with no apparent family ties to the Philippines, frequently remitting small sums of money to multiple beneficiaries in the Philippines within short time frames.

It was not until June 2018 that an appropriate automated detection scenario was implemented to monitor the LitePay channel for the known child exploitation typologies involving the Philippines.

Prior to the introduction of this detection scenario, Westpac failed to identify activity through the LitePay channel that was indicative of child exploitation risks.

At no time has Westpac implemented an appropriate detection scenario to monitor for the known child exploitation typologies involving frequent low value payments to the Philippines and South East Asia via non-LitePay channels.

Westpac has failed to identify activity indicative of child exploitation risks through non-LitePay channels.

Ordering Institution A

From October 2016 Westpac did not apply the detection scenarios in its TMS to transactions facilitated through Ordering Institution A. These transactions involve higher ML/TF risks.

84. By reason of the matters pleaded in paragraph 83, Westpac's Part A Program did not comply with s 85(2)(c) of the Act on and from 20 November 2013.
85. By reason of the matters pleaded in paragraph 84, Westpac failed to adopt and maintain an AML/CTF Program within the meaning of s 81 of the Act.
86. By reason of paragraphs 6 and 83 to 85, Westpac commenced to provide designated services in contravention of s 81(1) of the Act on and from 20 November 2013.

Particulars

Section 81(1) of the Act is a civil penalty provision: s 81(2) of the Act.

Failure to have appropriate systems and controls in place to ensure IFTI reporting – s 81

87. Part A of an AML/CTF Program must include systems and controls designed to ensure compliance with the obligation to report international funds transfer instructions, or IFTIs, under s 45 of the Act.

Particulars

Rule 9.9.1(2) of the Rules, made for the purposes of s 85(2)(c) of the Act.

88. On and from 20 November 2013, Westpac's Part A Program did not include appropriate systems and controls designed to ensure compliance with the obligation to report IFTIs under s 45 of the Act.

Particulars

There was inadequate end-to-end understanding, documentation and monitoring over the IFTI reporting process.

Westpac failed to identify all source systems that create payment instructions that required reporting under s 45 of the Act. The systems and oversight were especially poor with respect to non-SWIFT instructions.

Westpac's assurance processes failed to identify that over 72% of all incoming IFTIs received by Westpac for the period 5 November 2013 to 3 September 2018 had not been reported.

Longstanding known IFTI data issues included truncation of payer and payee names and the failure to report the payer in nested or 'on behalf of' transactions.

Senior management failed to prioritise resolution of IFTI reporting issues and were aware of longstanding non-compliance.

The IT system used by Westpac for IFTI reporting was not fit to ensure compliance with the IFTI obligations in the Act. Remediation of these systems was not given adequate priority or resourcing and is yet to be completed.

Westpac's Part A Program had procedures for IFTI reporting but they were not appropriately designed to ensure compliance with s 45 of the Act: paragraph 9.1 of Section 9 of Part A of versions 3.3 and 4.0; paragraph 10.1 of Section 10 of version 4.1 and paragraph 6.2 of Section 6 of versions 1.0, 1.1, 1.2 and 1.3.

89. By reason of the matters pleaded in paragraph 88, the Part A Program did not comply with s 85(2)(c) of the Act on and from 20 November 2013.
90. By reason of the matters pleaded in paragraph 89, Westpac failed to adopt and maintain an AML/CTF Program within the meaning of s 81 of the Act.
91. By reason of paragraphs 6 and 88 to 90, Westpac commenced to provide designated services in contravention of s 81(1) of the Act on and from 20 November 2013.

Particulars

Section 81(1) of the Act is a civil penalty provision: s 81(2) of the Act.

ONGOING CUSTOMER DUE DILIGENCE – SECTION 36 OF THE ACT

Customer 1

92. On and from 20 November 2013, Westpac did not monitor Customer 1 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From November 2013, Customer 1 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from November 2013, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through LitePay and multiple other channels.

From November 2013 to July 2019 about 625 transactions just under \$136,000 were conducted on Customer 1's account in repeated patterns consistent with child exploitation typologies.

It was not until June 2019 that Westpac first identified activity on Customer 1's account as indicative of child exploitation typologies. By this time, about 607 of these transactions, totalling just over \$132,000, had already been conducted on Customer 1's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 1's account, this activity would have been identified earlier.

In October 2014 and November 2014 Customer 1 transferred money to a person located in the Philippines who was later arrested in November 2015 for child trafficking and child exploitation involving live streaming of child sex shows and offering children for sex. Had Westpac been appropriately monitoring for frequent low value transactions consistent with child exploitation typologies in 2014, these transactions would have come to its attention.

Customer 1's account evidences that he travelled to the Philippines in 2014 and 2016.

Rules 15.5 and 15.9 of the Rules.

93. By reason of the matters pleaded at paragraph 92, Westpac has contravened s 36(1) of the Act on and from 20 November 2013.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 2

94. On and from 20 November 2013, Westpac did not monitor Customer 2 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From November 2013, Customer 2 held accounts with Westpac and was conducting ongoing transactions on these accounts within the meaning of item 3, table 1, s 6 of the Act.

On and from November 2013, there were repeated patterns of frequent low value transactions on these accounts that were consistent with child exploitation typologies. These transactions were effected through LitePay and multiple other channels.

From November 2013 to June 2019, about 991 transactions just over \$43,000 were conducted on Customer 2's accounts in repeated patterns consistent with child exploitation typologies.

It was not until June 2018 that Westpac first identified activity on Customer 2's accounts as indicative of child exploitation typologies.

By this time, about 909 of these transactions, totalling just under \$40,000, had already been conducted on Customer 2's accounts.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 2's account, this activity would have been identified earlier.

Rules 15.5 and 15.9 of the Rules.

95. By reason of the matters pleaded at paragraph 94, Westpac has contravened s 36(1) of the Act on and from 20 November 2013.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 3

96. On and from April 2016, Westpac did not monitor Customer 3 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From April 2016, Customer 3 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from April 2016, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through multiple channels.

From April 2016 to July 2019 about 111 transactions just over \$20,000 were conducted on Customer 3's account in repeated patterns consistent with child exploitation typologies.

It was not until July 2019 that Westpac first identified activity on Customer 3's account as indicative of child exploitation typologies. By

this time, about 109 of these transactions, totalling just under \$20,000, had already been conducted on Customer 3's accounts.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 3's account, this activity would have been identified earlier.

In July 2019 Westpac identified transfers to a beneficiary in the Philippines it suspected was a child exploitation facilitator. Customer 3 had transferred money to the same beneficiary in 2017, as part of a broader pattern of frequent low value transfers to the Philippines. Had Westpac been appropriately monitoring for frequent low value transactions consistent with this typology in 2017, it would have been alerted to this transaction.

Rules 15.5 and 15.9 of the Rules.

97. By reason of the matters pleaded at paragraph 96, Westpac has contravened s 36(1) of the Act on and from April 2016.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 4

98. On and from November 2016, Westpac did not monitor Customer 4 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From November 2016, Customer 4 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from November 2016, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through LitePay and multiple other channels.

From November 2016 to September 2019 about 340 transactions over \$52,000 were conducted on Customer 4's account in repeated patterns consistent with child exploitation typologies.

It was not until March 2018 that Westpac first identified activity on Customer 4's account as indicative of child exploitation typologies. By this time, about 54 of these transactions, totalling just over \$20,000, had already been conducted on Customer 4's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 4's account, this activity would have been identified earlier.

A further 286 transfers were processed after March 2018.

Customer 6's account evidences that he travelled to the Philippines in 2015, 2016, 2018 and 2019.

Rules 15.5 and 15.9 of the Rules.

99. By reason of the matters pleaded at paragraph 98, Westpac has contravened s 36(1) of the Act on and from November 2016.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 5

100. On and from June 2015, Westpac did not monitor Customer 5 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From June 2015, Customer 5 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from June 2015, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through online banking and, more recently, LitePay.

From June 2015 to August 2019 about 225 transactions just over \$75,000 were conducted on Customer 5's account in repeated patterns consistent with child exploitation typologies.

It was not until April 2019 that Westpac first identified activity on Customer 5's account as indicative of child exploitation typologies. By this time, about 173 of these transactions, totalling just under \$62,000, had already been conducted on Customer 5's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 5's account, this activity would have been identified earlier.

A further 52 transfers were processed after April 2019.

Customer 5's account evidences that he travelled to South East Asia on multiple occasions on and from 2013.

Rules 15.5 and 15.9 of the Rules.

101. By reason of the matters pleaded at paragraph 100, Westpac has contravened s 36(1) of the Act on and from June 2015.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 6

102. On and from May 2016, Westpac did not monitor Customer 6 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From May 2016, Customer 6 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from May 2016, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through LitePay and multiple other channels.

From May 2016 to August 2019 about 209 transactions just over \$32,000 were conducted on Customer 6's account in repeated patterns consistent with child exploitation typologies.

It was not until April 2018 that Westpac first identified activity on Customer 6's account as indicative of child exploitation typologies. By this time, about 108 of these transactions, totalling just under \$19,000, had already been conducted on Customer 6's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 6's account, this activity would have been identified earlier.

A further 101 transfers were processed after April 2018.

Customer 6's account evidences that he travelled to the Philippines in 2015/16 and 2017.

Rules 15.5 and 15.9 of the Rules.

103. By reason of the matters pleaded at paragraph 102, Westpac has contravened s 36(1) of the Act on and from May 2016.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 7

104. On and from March 2016, Westpac did not monitor Customer 7 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From March 2016, Customer 7 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from March 2016, there were repeated patterns of frequent low value transactions on this account that were consistent with child

exploitation typologies. These transactions were effected through LitePay and multiple other channels.

From March 2016 to July 2019 about 207 transactions over \$62,000 were conducted on Customer 7's account in repeated patterns consistent with child exploitation typologies.

It was not until June 2018 that Westpac first identified activity on Customer 7's account as indicative of child exploitation typologies. By this time, about 100 of these transactions, totalling just over \$35,000, had already been conducted on Customer 7's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 7's account, this activity would have been identified earlier.

A further 107 transfers were processed after June 2018.

Customer 7's account evidences that he travelled to the Philippines in 2015, 2017 and 2018.

Rules 15.5 and 15.9 of the Rules.

105. By reason of the matters pleaded at paragraph 104, Westpac has contravened s 36(1) of the Act on and from March 2016.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 8

106. On and from May 2016, Westpac did not monitor Customer 8 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From May 2016, Customer 8 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from May 2016, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through LitePay and other channels.

From May 2016 to August 2019 about 150 transactions just under \$33,000 were conducted on Customer 8's account in repeated patterns consistent with child exploitation typologies.

It was not until June 2018 that Westpac first identified activity on Customer 8's account as indicative of child exploitation typologies. By this time, about 75 of these transactions, totalling just over \$19,000, had already been conducted on Customer 8's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 8's account, this activity would have been identified earlier.

A further 75 transfers were processed after June 2018.

Customer 8's account evidences that he travelled to the Philippines in 2016, 2017 and 2018.

Rules 15.5 and 15.9 of the Rules.

107. By reason of the matters pleaded at paragraph 106, Westpac has contravened s 36(1) of the Act on and from May 2016.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 9

108. On and from March 2018, Westpac did not monitor Customer 9 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From March 2018, Customer 9 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from March 2018, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through LifePay and multiple other channels.

From March 2018 to July 2019 about 81 transactions just over \$24,000 were conducted on Customer 9's account in repeated patterns consistent with child exploitation typologies.

It was not until August 2019 that Westpac first identified activity on Customer 9's account as indicative of child exploitation typologies. Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 9's account, this activity would have been identified earlier.

Rules 15.5 and 15.9 of the Rules.

109. By reason of the matters pleaded at paragraph 108, Westpac has contravened s 36(1) of the Act on and from March 2018.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 10

110. On and from March 2017, Westpac did not monitor Customer 10 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From March 2017, Customer 10 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from March 2017, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through LitePay and multiple other channels.

From March 2017 to February 2019 about 73 transactions just under over \$13,000 were conducted on Customer 10's account in repeated patterns consistent with child exploitation typologies.

It was not until January 2019 that Westpac first identified activity on Customer 10's account as indicative of child exploitation typologies.

By this time, about 62 of these transactions, totalling just over \$12,000, had already been conducted on Customer 10's account.

Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 10's account, this activity would have been identified earlier.

Customer 10's account evidences that he travelled to the Philippines in 2017 and 2019.

Rules 15.5 and 15.9 of the Rules.

111. By reason of the matters pleaded at paragraph 110, Westpac has contravened s 36(1) of the Act on and from March 2017.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 11

112. On and from February 2019, Westpac did not monitor Customer 11 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From February 2019, Customer 11 held an account with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

On and from February 2019, there were repeated patterns of frequent low value transactions on this account that were consistent with child exploitation typologies. These transactions were effected through multiple channels.

From February 2019 to August 2019, a total of 35 low value transfers just under \$5,000 were made to 13 different beneficiaries in the Philippines.

It was not until October 2019 that Westpac first identified activity on Customer 11's account as indicative of child exploitation typologies. Had Westpac been applying appropriate detection scenarios for child exploitation typologies to Customer 11's account, this activity would have been identified earlier.

Rules 15.5 and 15.9 of the Rules.

113. By reason of the matters pleaded at paragraph 112, Westpac has contravened s 36(1) of the Act on and from February 2019.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

Customer 12

114. On and from June 2019, Westpac did not monitor Customer 12 in relation to the provision of designated services, with a view to identifying, mitigating and managing the ML/TF risk it reasonably faced, and did not do so in accordance with the Rules.

Particulars

From 2016, Customer 12 held accounts with Westpac and was conducting ongoing transactions on this account within the meaning of item 3, table 1, s 6 of the Act.

Customer 12 had a prior conviction for child exploitation offences.

On 3 June 2019 Westpac became aware that Customer 12 was transferring money to the Philippines from one account. The transactions were indicative of child exploitation. On 7 June 2019 Westpac became aware of Customer 12's conviction. Having identified higher ML/TF risks, Westpac was required to conduct enhanced customer due diligence: r 15.9(1). Westpac did not carry out prompt and appropriate due diligence, relative to the very serious risks involved.

From 10 June 2019 to 19 August 2019, Customer 12 continued to send 10 low value transfers to the Philippines totalling \$2,612.20 through another account. The transfers were consistent with child exploitation typologies. These transfers were not subject to automated monitoring for these known risks.

Rules 15.5 and 15.9 of the Rules.

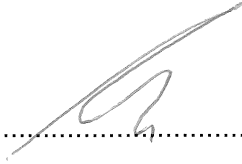
115. By reason of the matters pleaded at paragraph 114, Westpac has contravened s 36(1) of the Act on and from June 2019.

Particulars

Section 36(1) of the Act is a civil penalty provision: s 36(2) of the Act.

And the Applicant claims the relief specified in the accompanying Application.

Date: 20 November 2019



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Sonja Marsic
AGS Lawyer
for and on behalf of the Australian Government Solicitor
Lawyer for the Applicant

This pleading was prepared by, Sonja Marsic, lawyer,
and settled by Simon White SC and Daniel Tynan

CERTIFICATE OF LAWYER

I, Sonja Marsic, 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: 20 November 2019



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Sonja Marsic
AGS Lawyer
for and on behalf of the Australian Government Solicitor
Lawyer for the Applicant