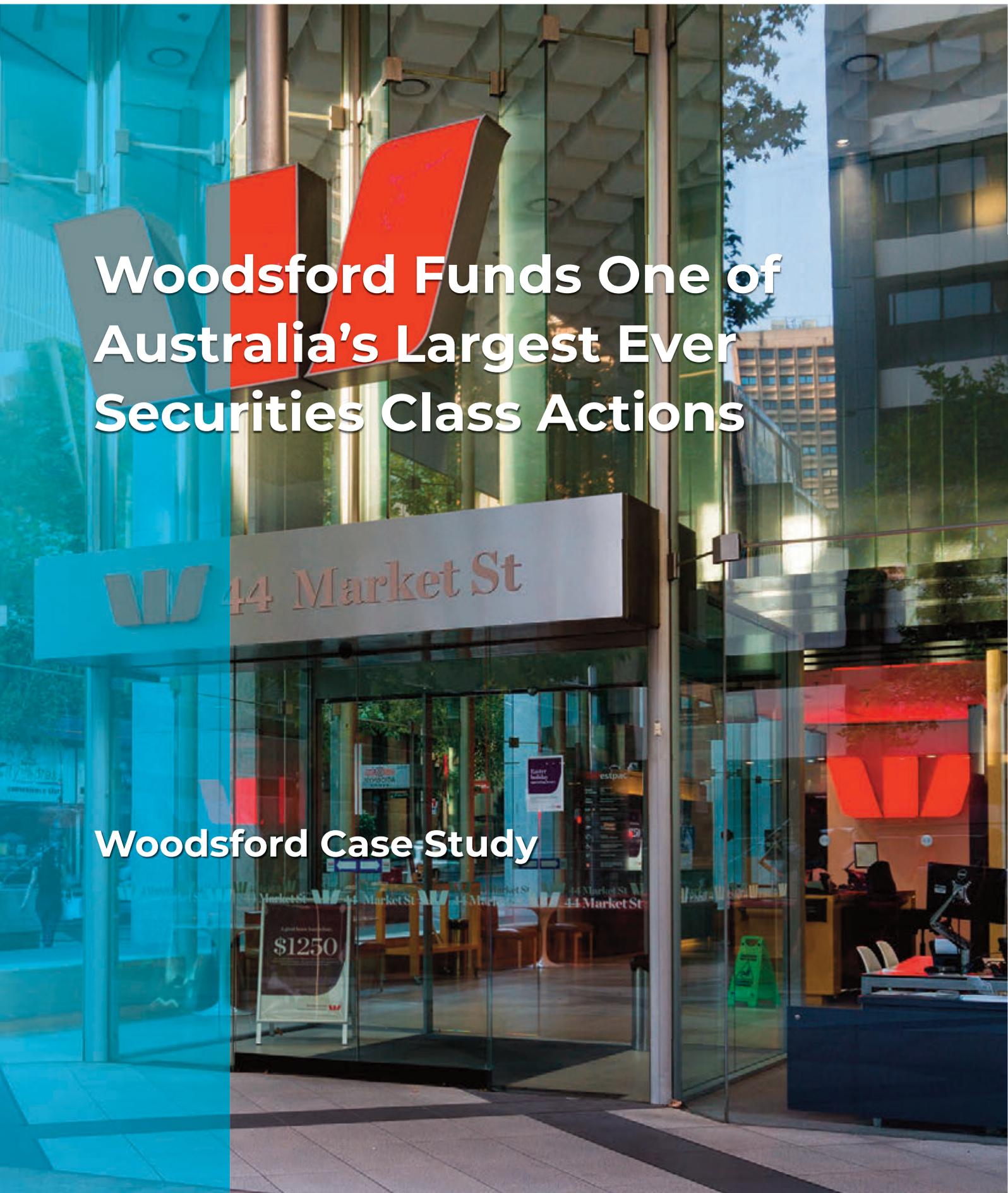


Woodsford Funds One of Australia's Largest Ever Securities Class Actions

Woodsford Case Study



Alleged Breaches of Duties Owed to Shareholders by Westpac

In December 2019 a shareholder of Westpac, funded by Woodsford and represented by the law firm Phi Finney McDonald, filed a class action against Westpac Banking Corporation, alleging that the bank had failed to advise the market of systemic failures of compliance with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (AML/CTF Act).

The class action, one of the largest in Australian history, was filed following an announcement in November 2019 by Australia's financial transactions regulator, the Australian Transaction Reports and Analysis Centre (AUSTRAC), that it had commenced proceedings against the "big four" bank relating to serious contraventions of the AML/CTF Act. The AUSTRAC proceedings culminated in Westpac agreeing to pay a \$1.3 billion penalty for its breaches of the AML/CTF Act, the largest civil penalty ever imposed by a regulator in Australia. At the time, AUSTRAC acknowledged that the penalty reflected "the seriousness of the compliance failings by Westpac". AUSTRAC also stated that:

As part of the agreement with AUSTRAC, Westpac admitted, amongst other things, that it had failed to properly report over 19.5 million International Funds Transfer Instructions (IFTIs), appropriately assess and monitor the risks associated with the movement of money into and out of Australia, including with known higher risk jurisdictions, and carry out appropriate customer due diligence in relation to suspicious transactions associated with possible child exploitation.

In the days following the announcement by AUSTRAC in November 2019, Westpac's share price fell from \$26.55 to \$24.44.

Woodsford is funding Westpac shareholders to recover damages arising from the alleged contraventions by Westpac of its continuous disclosure obligations, as well as misleading and deceptive conduct allegedly engaged in by Westpac. Specifically, it is alleged that

1. Westpac breached its obligations of continuous disclosure, by failing to advise the market of serious and systemic non-compliance with the AML/CTF Act, which included the failure to monitor certain customers transacting on accounts in a manner generally accepted to be indicative of child exploitation;



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2. Westpac was potentially exposed to action by AUSTRAC in respect of its non-compliance with the AML/CTF Act;
3. Westpac engaged in misleading and deceptive conduct by, amongst other things, representing to the market that the bank had had effective systems in place for ensuring compliance with the AML/CTF Act; ML/TF law, and that it was in fact in compliance with that law.

It is alleged that as a result of these contraventions, Westpac's share price was artificially inflated, and that investors who acquired an interest in Westpac shares, ADRs, or equity swaps between 6 December 2013 and 19 November 2019 (inclusive) suffered loss by paying inflated prices.

Funding Provided by Woodsford

Without funding from a litigation funder like Woodsford, the applicant would not be able to pursue the claim against Westpac on behalf of the affected Westpac shareholders. The funding provided by Woodsford provides equality of arms in the litigation against one of Australia's largest banks and ensures group members are not out-of-pocket for the costs of the litigation, until such time as a settlement or judgment may be received in their favour.

Woodsford pays for the costs incurred by the legal team in running the litigation, and also assumes the adverse cost risk for the applicant in the event that the claim is unsuccessful and the applicant is ordered to pay the respondent's costs.

Woodsford has entered into a Litigation Funding Agreement (LFA) with the applicant and some group members which provides that in return for bearing the upfront costs of the litigation as well as taking on the adverse costs risk, Woodsford is entitled to a success fee, which is a small percentage of any award or settlement.

Federal Court Approval of any settlement

The claim is being pursued in the Federal Court of Australia. Pursuant to section 33V(1) of the Federal Court Act 1976 (Cth) a representative proceeding may not be settled or discontinued without the approval of the Court.

In determining a settlement approval application, the Court will determine whether the settlement is fair and reasonable, having regard to the interests of group members. In the event that the Court determines the settlement is not fair and reasonable, it can decline to approve it. A body of jurisprudence exists in relation to the questions of whether a class action settlement is fair and reasonable, and the Court undertakes an evaluative exercise considering a number of factors.

If the claim settles, the Court will also approve any settlement distribution agreed between the parties, as well as any notices to group members advising of the terms of the settlement.

Summary

The funding provided by Woodsford is enabling shareholders to seek redress for the alleged contraventions by Westpac of Australian securities law. Woodsford is funding the costs of the litigation in return for a small percentage of any award or settlement. If the claim is settled prior to a judgment being delivered, any settlement will need to be approved by the Court. We believe the success fee offered in this case is one of the most competitive in Australia, if not the world.

The case is ongoing and if you think you have you may be eligible to join the class action, please visit [PFM's website](#) to register your interest.

"Woodsford offer more than just source of finance for complex and expensive litigation; they are true litigation partners, using their skills and experience to provide support to lawyers and their clients in areas including case merits assessment and valuation, finance structuring and litigation strategy. Their personnel are approachable, transparent and constructive, and their investment in the litigation is personal as well as financial. I have no hesitation in recommending them."

Tim Finney, Director at Phi Finney McDonald (Melbourne)

About Woodsford

Founded in 2010 and with a presence in London, New York, Brisbane, Philadelphia and Minneapolis, Woodsford is a leading ESG, access to justice and litigation finance business.

Whether it is helping consumers achieve collective redress, ensuring that investors and universities are properly compensated when Big Tech infringes intellectual property rights, or helping shareholders in collaborative, escalated engagement up to and including litigation with listed companies, Woodsford is committed to ensuring the highest ESG standards while providing access to justice.

Working globally with many of the world's leading law firms, our legal experience, investment, business and technical expertise, in tandem with our significant financial muscle, makes us a powerful partner and a formidable adversary.

For further information, visit
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