

Registration Form – Remittance Provider Class Action

IMPORTANT NOTICE:

- **If you wish to register to participate in the Remittance Provider Class Action, and have not previously registered to participate, you can register by completing and mailing this form.**
- **If you wish to register by completing and mailing this form, please ensure that the details referred to below are completed, and that the completed form is mailed to**

Mitry Lawyers , Liberty Place, 161-167 Castlereagh St, Sydney NSW 2000

in sufficient time for it to be delivered to that address by 4.00 pm on 19 December 2014. If your completed form is not received by that time, you may not be eligible to participate in any future settlement of the Remittance Provider Class Action.

1. Name of Remittance Business

.....
(Company Name) ACN/ABN

2. Name of Person Lodging Form

.....
(Mr / Mrs / Ms, etc) Full Name
.....
(Position)

3. Contact Information

Mailing Address (include state and postcode):

.....

Telephone No:

Email Address:

4. Name of Account-Holder(s) (This is the name of the person(s) or entity(ies) in which the account was held, and whose name(s) appeared on the account statements.)

.....

5. Date of XYLO Registration (This is the date on which you or a representative of the remittance business registered with Westpac to use the XYLO Foreign Exchange Platform).

.....

6. Date of closure notification (This is the date on which you or the remittance business received notice in writing from Westpac that the bank accounts of the remittance business were going to be closed).

Date notice received.....

Period of notice.....

Date extension received (if any)

Period of extension:

YOU MUST PROVIDE YOUR ACCOUNT NUMBERS IN THE TABLE ON THE REVERSE OF THIS FORM TO REGISTER

7. Account Numbers

| Account Number (please include BSB number) | Account Type |
|--|---------------------|
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Registration and Opt Out Notice

FEDERAL COURT OF AUSTRALIA

REMITTANCE PROVIDER CLASS ACTION

Sydney Forex Pty Ltd v Westpac Banking Corporation

(NSD 1222 of 2014)

THIS NOTICE IS INTENDED FOR ALL PERSONS WHO HAVE NOT PREVIOUSLY REGISTERED WITH MITRY LAWYERS TO PARTICIPATE IN THE REMITTANCE CLASS ACTION BUT ARE CLASS MEMBERS AS DEFINED BELOW

PLEASE READ THIS NOTICE CAREFULLY

IF YOU WISH TO PARTICIPATE IN THIS CLASS ACTION YOU MUST COMPLY WITH THIS NOTICE. IF YOU DO NOT DO SO YOUR RIGHTS MAY BE LOST.

YOU HAVE 3 OPTIONS:

- 1. DO NOTHING AND LOSE ANY RIGHTS TO ANY BENEFIT IF THIS ACTION SETTLES**
- 2. REGISTER TO RECEIVE ANY BENEFIT THAT MAY BECOME AVAILABLE IN THIS CLASS ACTION**
- 3. COMPLETE AN 'OPT OUT' FORM AND LOSE A RIGHT TO ANY BENEFIT AVAILABLE IN THIS ACTION BUT KEEP YOUR RIGHT TO TRY AND GET A BENEFIT YOURSELF**

1. Why is this notice important?

A class action has been commenced in the Federal Court of Australia by Sydney Forex Pty Ltd (**Applicant**) against Westpac Banking Corporation (ACN 007 457 141) (**Westpac**). The action arises out of a claim that Westpac has not provided its remittance business customers

with reasonable notice before purporting to close their bank accounts and access to the XYLO Foreign Exchange Platform (**XYLO**).

The Applicant is represented by solicitors Mitry Lawyers.

The Federal Court has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the action is brought and may be affected by the action. You are a class member if you:

- (a) operate a business providing remittance services, being services for the transfer of money between persons in Australia and persons in countries other than Australia;
- (b) are registered on the Remittance Sector Register maintained by the Chief Executive Officer of the Australian Transaction Reports and Analysis Centre (AUSTRAC) under s 75 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
- (c) as at 21 November 2014 hold bank accounts with Westpac; and
- (d) have been notified by Westpac in writing that the bank accounts will be closed by Westpac unless the bank accounts are personally closed first, and have not consented to such closure.

If you are a class member, you should read this notice very carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in it that you do not understand, you should seek legal advice.

Class members wishing to participate in any potential settlement of the proceeding must register their claims by **4.00 pm on 19 December 2014**. If you do not register, you may lose any rights you have to compensation.

2. What is a class action?

A class action is an action that is brought by one or more persons (the Applicant) on their own behalf and on behalf of a group of people (**class members**) against another person (the respondent, in this case Westpac) where the Applicant and the class members have similar claims against the respondent.

Class members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the Applicant is responsible for the costs.

Class members are bound by any judgment or settlement entered into in the class action unless they have opted out of the proceeding. This means that:

- (a) if the class action is successful, class members may be eligible for an account closure extension or Court-awarded damages;
- (b) if the class action is unsuccessful, class members are bound by that result; and
- (c) regardless of the outcome of the class action, class members will not be able to pursue their claims against Westpac in a separate legal action unless they have opted out.

3. What is Opt Out?

The Applicant in a class action does not need to seek the consent of class members to commence a class action on their behalf or to identify a specific class member. However, class members can cease to be class members by opting out of the class action. An explanation of how class members are able to opt out is found below in the section headed “How can you opt out of the action”.

4. What is this class action?

The Applicant alleges in the Further Amended Statement of Claim in Federal Court action NSD 1222 of 2014 that Westpac breached its contracts with the Applicant and class members by purporting to close the Applicant’s and class members’ bank accounts and access to XYLO without providing reasonable notice. The Applicant also alleges that Westpac acted unconscionably and made misleading and deceptive statements to the Applicant and class members in connection with the account closure notifications. The Applicant seeks that Westpac provide more time before it closes any accounts.

The respondent to the class action is Westpac is defending the class action.

5. Are you a class member?

You are a class member if you:

- (a) operate a business providing remittance services, being services for the transfer of money between persons in Australia and persons in countries other than Australia;
- (b) are registered on the Remittance Sector Register maintained by the Chief Executive Officer of the Australian Transaction Reports and Analysis Centre (AUSTRAC) under section 75 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
- (c) as at 21 November 2014 hold bank accounts with Westpac; and

- (d) have been notified by Westpac in writing that the bank accounts will be closed by Westpac unless the bank accounts are personally closed first, and have not consented to such closure.

If you are unsure whether or not you are a class member, you should contact Mitry Lawyers on + 61 2 9222 2833 or seek your own legal advice without delay.

6. Will you be liable for legal costs?

Subject to any retainer you enter with Mitry Lawyers, you will not become liable for any legal costs simply by remaining as a class member for the determination of the common questions. However:

- (a) if the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you can engage Mitry Lawyers or other lawyers to do that work for you. A copy of the terms on which Mitry Lawyers are acting in the class action may be obtained from them on the number shown below; and
- (b) if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the Applicant in running the class action but which are not able to be recovered from the respondents.

Please note, you will be required to pay any costs you incur on your own behalf, including legal advice you choose to obtain from lawyers other than Mitry Lawyers.

7. What will happen if you choose to remain a class member?

Unless you opt out, you will be bound by the outcome of the class action, and unless you take one of the two steps referred to in the Important Notice below, you will lose any right to receive compensation or pursue separate action on the same claims. If the class action is successful, you may be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and class members. If the action is unsuccessful or is not as successful as you might have wished, you will not be able to sue on the same claim in any other action.

8. How can you remain a class member?

If you wish to remain a class member, and to participate in any future settlement of the Remittance Provider Class Action (subject to an assessment that you have a valid claim), then you need to register by no later than **4.00 pm on 19 December 2014**, in order for you to receive a distribution from any amount agreed in settlement of the action. You can register by

completing the attached “**Registration Form – Remittance Provider Class Action**” and mailing it to Mitry Lawyers at the address shown on the form.

9. How can you opt out of the class action?

If you do not wish to remain a class member you must opt out of the class action. If you opt out you will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be at liberty to bring your own claim against Westpac, provided that you issue Court action within the time limit applicable to your claim. If you wish to bring your own claim against Westpac, you should seek your own legal advice about your claim and the applicable time limit **prior** to opting out.

NOTE: Westpac has given undertakings that it will not close the bank accounts of group members until 22 December 2014 or further order of the court. If you opt out, you will no longer be protected by those undertakings and Westpac may close your accounts.

If you wish to opt out of the class action you **must** do so by completing an “**Opt Out Notice**” in the form attached, then returning it to the Registrar of the Federal Court of Australia at the address on the form. **IMPORTANT: the Notice must reach the Registrar by no later than 4.00 pm on 19 December 2014**, otherwise it will not be effective.

You should submit the Opt Out Notice if you qualify as a class member and you wish to opt out of the class action.

Each class member should fill out a separate form. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

IMPORTANT NOTICE: If you are a class member who has not already registered to participate in the Remittance Provider Class Action with Mitry Lawyers and you do not either:

- (a) register to participate in the Remittance Provider Class Action by completing the attached “Registration Form – Remittance Provider Class Action” and mailing it to Mitry Lawyers at the address shown on the form; or**
- (b) complete and return to the Registrar of the Federal Court of Australia an “Opt Out Notice” form,**

by 4.00 pm on 19 December 2014, you will remain a class member for all purposes, and will be bound by any resolution in the Remittance Provider Class Action, but, subject to further order of the Court, will not be entitled to participate in the distribution of any future amount agreed in settlement of the Remittance Provider Class Action.

10. Where can you obtain copies of relevant documents?

Copies of relevant documents, including the Second Further Amended Originating Application, the Further Amended Statement of Claim and the orders of the Court regarding this Notice may be obtained by downloading them from:

- (c) the website of the Federal Court of Australia (<http://www.fedcourt.gov.au/case-management-services/class-actions>); or
- (d) the website of Mitry Lawyers (<http://www.mitry.com.au>).

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Mitry Lawyers on + 61 2 9222 2833 or or seek your own legal advice.

You should not delay in making your decision.

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(Company Name) ACN/ABN

2. Name of Person Lodging Form

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(Mr / Mrs / Ms, etc) Full Name

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Telephone No:

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4. Name of Account-Holder(s) (This is the name of the person(s) or entity(ies) in which the account was held, and whose name(s) appeared on the account statements.)

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Rule 9.34

Opt out notice

NSD1222 of 2014

Federal Court of Australia
District Registry: New South Wales
Division: General

Sydney Forex Pty Ltd (ACN 111 743 750)

Applicant

Westpac Banking Corporation (ACN 007 457 141)

Respondent

To: The Registrar
Federal Court of Australia
New South Wales District Registry
Law Courts Building
184 Phillip Street, Sydney NSW 2000

..... (insert name), a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that I am opting out of the representative proceeding.

Date:

Signed by (insert name)
Group Member / Lawyer for the Group Member

Filed on behalf of (name & role of party) Sydney Forex Pty Limited, applicant
Prepared by (name of person/lawyer) Richard Louis Mitry
Law firm (if applicable) Mitry Lawyers
Tel (02) 9222 2833 Fax (02) 9222 2855
Email richard@mitry.com.au
Address for service Mitry Lawyers 161 Castlereagh St Sydney NSW 2000
(include state and postcode)