

Westpac Independence Definition

The following definition of 'Independent director' was adopted by the Westpac Board and is effective from 1 October 2020.

A Westpac independent director is independent of management and free from any business or other relationship that could materially interfere with – or could reasonably be perceived to materially interfere with – the exercise of their unfettered and independent judgment, who acts in the best interests of Westpac as a whole, rather than the interests of an individual shareholder or other party. The Board must affirmatively determine that a director is independent.

The Board will consider and determine whether each director can be regarded as an independent director. In assessing independence, the Board will consider if the director has a business or other relationship with Westpac, either directly, or as a partner, shareholder or officer of a company or other entity that has an interest or a business or other relationship with Westpac or another Westpac group member.

In assessing independence, the Board will have regard to whether the director or an immediate family member¹ has, or has had, any of the following relationships:

1. within the last three years, been a substantial shareholder² of Westpac or an officer of, or otherwise associated with, a substantial shareholder of Westpac including representing or being an employee of, or professional adviser to, a substantial shareholder;
2. within the last three years, employment in an executive capacity by Westpac or another Westpac Group member, or been a director of Westpac after ceasing employment with Westpac;
3. receives performance-based remuneration from, or participates in an employee incentive scheme of, Westpac;
4. within the last three years, been a principal of a material professional adviser or a material consultant to Westpac or another Westpac Group member, or an employee or officer of such adviser or consultant or has otherwise been associated with the service provided or the person providing such service;
5. within the last three years, a present or former affiliation with or employment by a present or former internal or external auditor of Westpac or another Westpac group member who has worked on the Westpac (or Westpac Group member) audit;
6. within the last three years, employment by any entity while that entity had an executive officer of Westpac or another Westpac Group member on its compensation committee;
7. a material supplier or material customer³ of Westpac or another Westpac Group member, or an officer of or otherwise associated with a material supplier or material customer of Westpac or any other Westpac Group member;
8. a material contractual relationship³ with Westpac or another Westpac Group member other than as a Director or Committee member of Westpac or another Westpac Group member;
9. has served on the Board of Westpac or of another Westpac Group member for a period in excess of 12 years⁴ and having regard to all the circumstances such a term could, or could reasonably be perceived to, compromise their independence from management and substantial shareholders; or
10. has an interest or a business or other relationship which could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of

¹ The meaning of "immediate family member" includes a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law and anyone (other than employees of Westpac or a Westpac group member) who shares such person's home.

² The meaning of "substantial shareholder" is a person that has a substantial holding as that term is defined in section 9 of the Corporations Act.

³ In accordance with the NYSE Listing Rules 303A.02(b)(ii) and (v) the Board will apply materiality thresholds of an AUD equivalent to USD 120,000 (for individual Directors) and 2% of Westpac's consolidated gross revenues (for entities with which Directors have a commercial association).

⁴ With the Board regularly assessing independence of Directors who have served for more than 10 years.

⁵ "Close personal ties" may be based on family, friendship or other social or business connections.

Westpac (including close personal ties⁵ with any person who falls within any of the categories described above).

NYSE Independence Test

The NYSE Independence Test contains both a general test for independence and a set of specific tests.

General test

The general test for independence under the NYSE Listing Rules requires a positive determination by the Board but otherwise is similar to that which applies in Australia. The test is as follows:

'No director qualifies as 'independent' unless the board of directors affirmatively determines that the director has no material relationship with the listed company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the company).'

Companies must identify which directors are independent and disclose the basis for that determination.

Specific tests

In addition to this general test, the NYSE Listing Rules prescribe certain specific relationships which are broadly similar to the elements of the Westpac Independence Definition but include specific materiality thresholds. If a Director has one of these defined relationships and the materiality threshold is exceeded, there is no room for Board discretion.

In light of the issues raised by NEDs in their questionnaire responses, the only specific test potentially relevant is that a Director is not independent if:

303A.02(b)(v): "The Director is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the listed company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company's consolidated gross revenues."