

Compensation Deed Poll

In favour of:

Any person who is or was a Debtor (as defined in the Document) and

**The Australian Securities & Investments Commission of 5/100 Market Street,
Sydney NSW 2000 (ASIC)**

By:

**Westpac Banking Corporation (ABN 33 007 457 141) of 275 Kent Street, Sydney
NSW 2000 (Westpac)**

Compensation Deed Poll

Date 19 January 2018

In favour of:

Any person who is or was a Debtor (as defined below) and

The Australian Securities & Investments Commission of 5/100 Market Street, Sydney NSW 2000 (ASIC)

By:

Westpac Banking Corporation (ABN 33 007 457 141) of 275 Kent Street, Sydney NSW 2000 (Westpac)

Background

- A. Westpac and American Express Australia Limited (ABN 92 108 952 085) (Amex) have entered into a partnership in relation to co-branded consumer credit cards. The cards are issued and serviced by Amex and available to eligible Westpac customers.
- B. ASIC has granted relief to Westpac from certain requirements of Chapter 3 of the National Consumer Credit Protection Act 2009 (Cwlth) (which Chapter relates to responsible lending conduct), and particularly Divisions 4 and 6 of Part 3.1 of the NCCP Act, in respect of the provision of credit assistance to prospective Amex card customers on the basis that, where applicable, a responsible lending assessment will be carried out by Amex as credit provider.
- C. If Amex has contravened any of the relevant requirements of Chapter 3 of the NCCP Act, the debtor is entitled under the NCCP Act to seek compensation from Amex pursuant to Section 178 of the NCCP Act for the loss or damage suffered by the debtor resulting from that contravention.
- D. As a condition of granting relief to Westpac, ASIC requires Westpac to enter into this Compensation Deed Poll. The purpose of the Deed is to ensure that, if Amex has breached Section 133 of the NCCP Act in relation to the debtor's Amex credit card contract with Amex, as an alternative to seeking compensation from Amex, debtors can recover that part of any loss or damage as a result of that breach from Westpac (if it has not already been recovered by the debtor from Amex).

Operative provisions

Definitions and interpretation

1.1 Definitions

In this Deed Poll:

Amex means American Express Australia Limited (ABN 92 108 952 085)

credit contract has the same meaning given to it in the NCCP Act.

NCCP Act means the *National Consumer Credit Protection Act 2009* (Cwlth).

Amex card means a consumer credit card issued by Amex and co-branded under Westpac's 'Altitude Rewards' (or any renamed or replacement to Altitude Rewards) credit card portfolio. **Amex credit card contract** means a credit contract under which Amex is the credit provider for an Amex card.

Debtor means a debtor under an Amex credit card contract.

1.2 Interpretation

In this Deed Poll:

- (a) headings are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (b) a word importing the singular includes the plural (and vice versa);
 - (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

Compensation for Debtors

2.1 Westpac irrevocably agrees that:

- (a) it is jointly and severally liable with Amex to pay to a Debtor any compensation which Amex is ordered to pay to a Debtor under section 178 of the NCCP Act as a consequence of a breach by Amex of Division 4 of Part 3-2 of the NCCP Act in relation to a Amex credit card contract (including an increase in the credit limit of a contract).

General

3.1 Governing law

This Deed Poll is governed by and must be construed according to the law applying in New South Wales.

3.2 Jurisdiction

Westpac irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Deed Poll; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 3.2(a) of this Deed Poll.

Executed as a Deed Poll

SIGNED SEALED AND DELIVERED


for and on behalf of

WESTPAC BANKING CORPORATION

by its attorneys, under the Power of Attorney each of whom, by executing this appointment, state that they have received no notice of revocation of the Power of Attorney, in the presence of:



Name: STEPHANIE GRAY
Tier One Attorney



Witness
Name: PETRIA LEWIS



Name: WILLIAM LEONIDA
Tier One Attorney