

Form 59
Rule 29.02(1)

Affidavit

No. VID1368 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Securities and Investments Commission

Plaintiff

HSBC Bank Australia Limited (ACN 006 434 162)

Defendant

Affidavit of: **Felicity Louise Healy**
Address: Level 7, 39 Martin Place Sydney NSW 2000
Occupation: Solicitor
Date: 23 May 2025

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I, Felicity Louise Healy say on oath:

- I am a partner at Ashurst Australia and I am the solicitor on record for the defendant, HSBC Bank Australia Limited (ACN 006 434 162) (**HSBC Australia**), in these proceedings. I have day to day conduct of this proceeding on behalf of HSBC Australia.
- I am authorised to make this affidavit on behalf of HSBC Australia.

Filed on behalf of (name & role of party) HSBC Bank Australia Limited (ACN 006 434 162), Defendant

Prepared by (name of person/lawyer) Felicity Healy

Law firm (if applicable) Ashurst Australia

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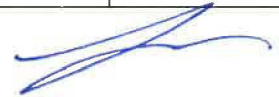
Address for service Level 7, 39 Martin Place Sydney NSW 2000
(include state and postcode)

3. By making this affidavit, I do not intend and am not authorised to waive privilege in any communication, or record of communication, that is the subject of HSBC Australia's legal professional privilege. Nothing in this affidavit ought to be construed as involving a waiver of privilege. To the extent that anything may be construed as involving a waiver of privilege, I withdraw and do not rely on that part of this affidavit.
4. Unless otherwise stated, I make this affidavit based on my own knowledge. Where statements are not made from my own knowledge, I have identified the source of the information.
5. Exhibited to me at the time of swearing this affidavit and marked **Exhibit FLH-1** is a paginated bundle of documents comprising the exhibit to this affidavit.

Statutory Notices issued by ASIC

6. Between 24 April 2024 and 4 December 2024, the plaintiff, ASIC, issued a number of statutory notices to HSBC Australia. Below I set out a table I caused to be prepared for the purpose of this affidavit, which summarises the statutory notices issued by ASIC to HSBC Australia prior to the commencement of these proceedings (**ASIC Notices**).
7. I am informed by Shamil Sharma, Associate General Counsel, Head of Regulatory Legal of HSBC Australia, that prior to production, there were discussions with ASIC in relation to the scope of the ASIC Notices and the dates on which HSBC Australia was to comply with those notices.

#	Notice Title	Date of Notice	Due Date as set out in the notice	Dates on which the information and documents were provided to ASIC	Number of questions/items in the Notice	Pages of Exhibit FLH-1
1.	s 30 Notice NTC2423059	24 April 2024	3 May 2024	About 6 May 2024	9	1-6
2.	s 912C(1) Notice NTC2323058	24 April 2024	3 May 2024	3 May 2024	3	7-13
3.	s 30 Notice NTC2423295	13 May 2024	24 May 2024	24 May 2024	20	14-22
4.	s 33 Notice NTC242420	11 July 2024	08 August 2024	8 August 2024	18	23-31

	2			15 August 2024 22 August 2024 29 August 2024		
5.	s 912C(1) Notice NTC242417 7	11 July 2024	08 August 2024	08 August 2024 15 August 2024 22 August 2024 29 August 2024 05 September 2024	14	32-42
6.	s 912C(1) Notice NTC242546 3	19 September 2024	27 September 2024	02 October 2024	8	43-50
7.	s 33 Notice NTC242562 7	30 September 2024	21 October 2024	23 October 2024	6	51-57
8.	s 912C(1) Notice NTC242562 1	30 September 2024	21 October 2024	21 October 2024 27 November 2024	3	58-65
9.	s 33 Notice NTC242582 1	11 October 2024	1 November 2024	1 November 2024	4	66-71
10.	s 912C(1) Notice NTC242581 8	11 October 2024	1 November 2024	1 November 2024 8 November 2024 20 February 2025	33	72-81
11.	s 33 Notice NTC242603 6	18 October 2024	8 November 2024	8 November 2024	5	82-87
12.	s 912C(1) Notice NTC242602 8	18 October 2024	8 November 2024	8 November 2024 13 November 2024 20 February 2025	29	88-97
13.	s 912C(1) Notice	1 November	15 November	15 November 2024	4	98-107

	NTC2426368	2024	2024			
14.	s 33 Notice NTC2426460	8 November 2024	22 November 2024	25 November 2024 3 December 2024	4	108-116
15.	s 912C(1) Notice NTC2426457	8 November 2024	22 November 2024	8 November 2024 25 November 2024 3 December 2024 5 December 2024 20 February 2025	36	117-129
16.	s 33 Notice NTC2426643	14 November	21 November 2024	27 November 2024	11	130-137
17.	s 912C(1) Notice NTC2426642	14 November 2024	21 November 2024	25 November 2024 27 November 2024	5	138-146
18.	s 33 Notice NTC2427101	4 December 2024	10 December 2024	20 February 2025	3	147-152
19.	s 912C(1) Notice NTC2427100	4 December 2024	10 December 2024	10 December 2024 15 January 2025	3	153-160
20.	s 33 Notice NTC2427122	4 December 2024	13 December 2024	15 January 2025	6	161-167
21.	s 912C(1) Notice NTC2427119	4 December 2024	13 December 2025	13 December 2024	2	168-175

The scope of the Customer Data requests in the ASIC Notices

8. Item 1 of the s 912C(1) Notice dated 19 September 2024 (**19 September s912C Notice**) required HSBC Australia to prepare and produce an Excel spreadsheet by 27 September 2024 containing specific data detailing customer interactions with HSBC

Australia regarding possible Scams or Frauds (as defined in the 19 September s912C Notice) between 1 January 2022 and 30 June 2024 (a period of 2 years and 6 months).

9. ASIC also requested that data be included in the Excel spreadsheet in respect of 8 additional areas, as follows:
 - (a) the customer's name;
 - (b) the date the Scam or Fraud occurred;
 - (c) the date the customer first reported to HSBC Australia the possibility that they were the victim of a Scam or Fraud;
 - (d) the date the customer's account was restricted as a result of HSBC Australia becoming aware of the Scam or Fraud;
 - (e) the date HSBC Australia first contacted the customer after it commenced an investigation into the report or notification by the customer in relation to the possibility of being a victim of a Scam or Fraud;
 - (f) the date HSBC Australia contacted the customer advising that it needs more time to complete its investigation in relation to the report lodged by the customer;
 - (g) the date HSBC Australia contacted the customer to notify the customer of the outcome of the investigation in relation to the Scam or Fraud notified by the customer to HSBC Australia; and
 - (h) the date upon which the customer's full access and/or use of the relevant MTA (as defined in the notice) was reinstated.
10. With consent from ASIC, on about 2 October 2024, HSBC Australia responded to item 1 of the 19 September s912C Notice by providing ASIC with an excel spreadsheet comprising approximately 16,273 cells of data. I am informed by Mr Sharma and believe that:
 - (a) this Excel spreadsheet contained as much of the data sought by ASIC in Item 1 of its 19 September s912C Notice HSBC Australia was able to source within a two week period in relation to 1,751 customers;
 - (b) so as to ensure that HSBC Australia was in a position to responds as quickly as possible, HSBC Australia provided ASIC with the details of goodwill payments made to those customers that it was able to compile in the time available, on a voluntary basis; and
 - (c) for the purpose of preparing its response to the 19 September s912C Notice, approximately 34 employees from various teams across HSBC Australia were engaged.
11. Item 1 of the s 912C(1) Notice dated 11 October 2024 (**11 October s912C Notice**) required HSBC Australia to prepare and produce an Excel spreadsheet by 1 November 2024, containing 27 data points with respect to reports of unauthorised transactions between 1 January 2022 and 31 August 2024 (a period of 2 years and 8 months) in


respect of each Relevant Customer (as defined in the 11 October s912C Notice). Those data points were as follows:

- (a) the customer ID;
- (b) the customer's name;
- (c) the date the unauthorised transaction occurred;
- (d) the date HSBC Australia first received a report of an unauthorised transaction;
- (e) the earliest date one or more MTAs (as defined in the Notice) of the Relevant Customer were restricted or blocked (including internet/mobile banking) as a result of HSBC Australia becoming aware of the unauthorised transaction;
- (f) the nature of any relevant restrictions or blocks applied to the customer's account after HSBC Australia became aware of the reported unauthorised transaction;
- (g) the date HSBC Australia first contacted the Relevant Customer after it commenced an investigation into the report in relation to the possibility of an unauthorised transaction;
- (h) the number of days between the dates in (c) and (g);
- (i) whether HSBC Australia advised the Relevant Customer in writing of the need for more time to complete investigation into the reported unauthorised transaction ;
- (j) the date HSBC Australia advised the Relevant Customer in writing that it needed more time to complete its investigation in relation to the reported unauthorised transaction;
- (k) the document ID of HSBC Australia's advice in writing to Relevant Customer that more time was needed to complete its investigation referred to in paragraph (i);
- (l) the number of days between the dates in response to paragraphs (c) and (j);
- (m) the date HSBC Australia completed its investigation of the reported unauthorised transaction;
- (n) the document ID of HSBC Australia's investigation report referred to in paragraph (m);
- (o) the date HSBC Australia advised the Relevant Customer in writing of the outcome of the report of the unauthorised transaction and the reasons for the outcome;
- (p) the number of days between the dates in (c) and (m);
- (q) the number of days between the dates in (c) and (o);
- (r) the nature of the unauthorised transaction as determined by HSBC Australia's investigation, eg Digital Online/Mobile, smishing, or token reactivation;



- (s) whether there were “exceptional circumstances” for the purposes of clause 38.5 of the 2016 ePayments Code or clause 18.2 of the 2022 ePayments Code;
 - (t) a brief description of the “exceptional circumstances” referred to in paragraph (s);
 - (u) the document ID of the document which records any determination by HSBC Australia that the “exceptional circumstances” referred to in paragraph (s) was applicable;
 - (v) the date HSBC Australia notified the Relevant Customer of the process to reinstate full access and/or use of relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking);
 - (w) the date upon which the Relevant Customer's full access and/or use of the relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) was reinstated;
 - (x) the number of days between the dates in response to (d) and (v);
 - (y) the number of days between the dates in response to (d) and (w);
 - (z) the Relevant Customer's total loss (net of any recovery outcome) not including any goodwill payment; and
 - (aa) any goodwill payment amount made to the Relevant Customer.
12. On or about 1 November 2024, HSBC Australia responded to Item 1 of the 11 October s912C Notice by providing ASIC with an Excel spreadsheet comprising approximately 23,193 cells of data. I am informed by Mr Sharma and believe that this Excel spreadsheet contained the data sought by ASIC in Item 1 of the 11 October s912C Notice that HSBC Australia was able to source in relation to 859 customers within a three week period.
 13. Item 1 of the s 912C(1) Notice dated 18 October 2024 (**18 October s912C Notice**) similarly required HSBC to prepare and produce an excel spreadsheet by 8 November 2024 containing the same 27 data points as the 11 October s912C Notice, with respect to reports of unauthorised transactions for an earlier period of time, namely between 1 January 2020 and 31 December 2021 (a period of 2 years).
 14. On about 13 November 2024, HSBC Australia responded to item 1 of the 18 October s912C(1) Notice by providing ASIC with an excel spreadsheet comprising 2,511 cells of data. I am informed by Mr Sharma and believe that this Excel spreadsheet contained the data sought by ASIC in Item 1 of the 18 October s912C Notice that HSBC Australia was able to source within a four week period in relation to 93 additional customers.
 15. Item 3 of the s 912C(1) Notice dated 8 November 2024 (**8 November s912C Notice**) required HSBC Australia to prepare and produce an Excel spreadsheet by 22 November 2024 containing 30 data points with respect to reports of unauthorised transactions between 1 January 2020 to 31 August 2024 (a period of 4 years and 8 months). Those data points were the same as the data points set out in paragraph 11 above, with the addition of the following:

- (a) the payment rails and channels used to make the payment out of the customer's account;
 - (b) the relevant payment rail and channel used to make payment from HSBC Australia to another financial institution (if in addition to the information in paragraph (a) above; and
 - (c) the type of account(s) from which the reported unauthorised transaction(s) occurred.
16. On about 5 December 2024, HSBC Australia responded to item 3 of the 8 November s912C Notice by providing ASIC with an Excel spreadsheet comprising approximately 14,944 cells of data. I am informed by Mr Sharma and believe that it was not possible to combine the data requested in paragraphs (a) to (j) of the 8 November s912C Notice with the additional information sought in paragraph 15. The Excel spreadsheet produced to ASIC on 5 December 2024 contained, amongst other things, the payment channel and payment rail information for the transactions referred to in the spreadsheet that was produced to ASIC on 13 November 2024 (referred to in paragraph 15 above) that HSBC Australia was able to source within a four week period.
17. Item 1 of the s 912C(1) Notice dated 14 November 2024 (**14 November s912C Notice**) required HSBC Australia to prepare and produce an Excel spreadsheet by 21 November 2024 containing an additional data point with respect to each of the customers identified in the spreadsheet that was prepared in response to Item 1 of the 11 October s912C Notice and 18 October s912C Notice. That additional data point was the document ID of HSBC Australia's advice to the Relevant Customer (as defined in the 14 November s912C Notice) in writing of the outcome of the report of the unauthorised transaction and the reasons for the outcome.
18. On about 25 November 2024, HSBC Australia completed its response to Item 1 of the 14 November s912C(1) Notice by providing ASIC with an excel spreadsheet comprising approximately 26,681 cells of data. I am informed by Mr Sharma and believe that this Excel spreadsheet contained the data sought by ASIC in Item 1 of the 14 November s912C Notice that HSBC Australia was able to source given the complexity, in relation to approximately 951 customers.
19. I am instructed by HSBC Australia that the collation of the information referred to Item 1 of the 19 September s912C Notice, Item 1 of the 11 October s912C Notice, Item 1 of the 18 October 912C Notice, Item 3 of the 8 November s912C and Item 1 of the 14 November s912C Notice (collectively, **Customer Data**) required HSBC Australia to, amongst other things, review and interrogate multiple data sources, including customer records, emails, correspondence with customers, file notes of customer interactions, investigation reports and customer records, which were maintained across different record systems maintained by HSBC Australia.
20. I am informed by James Yip, Senior Manager, Fraud Operations and Investigation of HSBC Australia, and believe that following the collation of the Customer Data, HSBC Australia used its best efforts, in the time available, to assess the accuracy of the information collated, prior to its provision to ASIC. I am informed that assessing the accuracy of the information involved the manual review and analysis of multiple data



sources. I am informed by Mr Yip that assessing the accuracy of the information involved, amongst other things, a second level of quality insurance, where a senior investigator in the Fraud Operations and Investigations team would review and assess the accuracy of updated data to be provided for cases queried by ASIC.

Correspondence between HSBC Australia and ASIC relating to the Customer Data produced in response to the ASIC Notices

21. As set out in the table in paragraph 6 above, HSBC Australia's responses to the ASIC Notices issued on 4 December 2024 were required to be provided to ASIC by 10 December 2024 and 13 December 2024 respectively.
22. During the same period of time that HSBC Australia was preparing its responses to the ASIC Notices dated 4 December 2024, HSBC Australia received the following correspondence from ASIC in relation to its responses to prior ASIC Notices:
 - (a) on 28 November 2024 at 12.22 pm, HSBC Australia received an email from Helen Shan, of ASIC, a copy of the email is exhibited at pages **176-178** of **Exhibit FLH-1**. In that email, Ms Shan raised a number of queries in relation to the Customer Data prepared by HSBC Australia in response to item 1 of the 14 November s912C Notice and requested an urgent response by 9.00 am the following day;
 - (b) on 2 December 2024 at 12.20 pm, HSBC Australia received an email from Ms Shan, a copy of the email is exhibited at pages **179-186** of **Exhibit FLH-1**. In that email, Ms Shan raised further queries in relation to HSBC Australia's responses to the s 33 notices dated 8 November 2024 and 14 November 2024. Ms Shan's email requested a response to her queries by 3 December 2024; and
 - (c) on 6 December 2024, HSBC Australia received an email from Sergei Smirnov, a Senior Lawyer with ASIC, a copy of the email is exhibited at pages **187-189** of **Exhibit FLH-1**. In that email, Mr Smirnov raised a number of queries in relation to the Customer Data prepared by HSBC Australia in response to Item 1 of each of the 11 October s912C Notice and 18 October s912C Notice.
23. I am informed by Mr Sharma, and believe that, HSBC Australia used its best endeavours to respond to the requests contained in the correspondence referred to in paragraph 22 above, within the timeframes requested, by instructing a significant number of HSBC Australia employees and offshore HSBC employees to assist with the identification, extraction, review and organisation of the data requested by ASIC.
24. On 10 March 2025, HSBC Australia received a further email from Ms Shan, a copy of that email is exhibited at pages **190-194** of **Exhibit FLH-1**. In that email, ASIC raised additional queries in relation to amended Customer Data that was produced by HSBC Australia to ASIC on 20 February 2025.

Status of the ASIC Notices and the commencement of the proceedings by ASIC

25. On 13 December 2024, ASIC filed an Originating Process, Statement of Claim and Concise Statement in the Federal Court of Australia to commence these proceedings. The Statement of Claim extracts and refers to the Customer Data produced by HSBC




Australia to ASIC in response to the ASIC Notices, and which was the subject of ASIC's queries relating to data accuracy in its emails dated 28 November 2024, 2 December 2024 and 6 December 2024.

26. At the time ASIC commenced proceedings, HSBC Australia had not been able to complete its response to all of the ASIC Notices, nor had it been able to respond to each and every query raised in the correspondence referred to in paragraph 22. Further, the final statutory notice was received from ASIC on 4 December 2024, requiring compliance by 13 December 2024.
27. On 18 December 2024, Ashurst sent a letter to ASIC, a copy of which is exhibited at pages **195-196** of **Exhibit FLH-1**. That letter states that HSBC Australia had yet to substantively respond to ASIC's queries in its email dated 6 December 2024, and notwithstanding that ASIC had commenced proceedings against HSBC Australia including the data in Schedules F and H of the Statement of Claim (the subject of ASIC's queries on 6 December 2024). The letter also stated that HSBC Australia proposed to address any queries arising from the data in Schedules F and H of the Statement of Claim as part of its Defence in the proceedings.
28. Following a request from ASIC, on 20 December 2024, Andrew Rummery, General Counsel of HSBC Australia sent an email to Sarah Bower (Senior Manager of ASIC), a copy of which is exhibited at pages **197-199** of **Exhibit FLH-1**. In that email, Mr Rummery confirmed that HSBC Australia would continue to provide ASIC with the information and documents required under the ASIC Notices that were issued prior to the commencement of these proceedings.

Customer Data

29. As I have described in paragraph 19 above, the collation and preparation of the Customer Data required considerable time and effort by HSBC Australia within a truncated period. As foreshadowed in the letter of 18 December 2024, since the commencement of the proceedings HSBC Australia has allocated substantial resources in an effort to complete outstanding responses required under the ASIC Notices, to verify the accuracy of the Customer Data and to specifically address ASIC's queries regarding data errors or inaccuracies. I refer to the resources allocated to this task further below. Despite the significant allocation of resources, HSBC Australia has not yet completed this process.
30. I am informed by Mr Sharma that HSBC Australia maintains a large volume of data for each of the customers referred to in the Customer Data, including data that is not relevant to the ASIC Notices. Therefore, identifying and extracting the specific data that is relevant to the ASIC Notices is a manual and time-consuming process.
31. The steps that HSBC Australia has taken since January 2025 to verify and update the Customer Data has at various times included enlisting more than 50 employees, across both HSBC Australia and offshore HSBC teams, to review customer records, internal HSBC Australia emails, communications with customers, file notes of customer interactions, investigation reports, transaction records, customer bank statements, HSBC Australia's general ledger records and various other alternative HSBC Australia systems to supplement the Customer Data. HSBC Australia has continued to interrogate

its back-end systems to obtain information relating to internet banking blocks, debit and credit transactions, account blocking and unblocking dates and the status of customer accounts. I am informed by Mr Yip that the exercise of collating this information and presenting it in a form required by ASIC is a process that relies heavily on subject matter specialists such as HSBC Australia's Data Analytics team and needs to be completed manually.

32. I am informed by Mr Sharma and believe that HSBC Australia anticipates it will be in a position to finalise its review and correction of the Customer Data, by 10 June 2025.

HSBC Australia's defence to the Amended Statement of Claim

33. As I have described in paragraph 25 above, Schedules F and H of the Amended Statement of Claim extract and refer to the Customer Data produced by HSBC Australia. In order to prepare its defence, HSBC Australia is required to, among other things, respond to the allegations made by ASIC in reliance of the data set out in Schedules F and H. In light of HSBC Australia being in the process of identifying and correcting the inaccuracies that have been identified in the underlying data used to prepare Schedules F and H, I am instructed that HSBC Australia considers that it would be inefficient, and not consistent with the overarching purpose under s 37M of the *Federal Court of Australia Act 1976* (Cth), for HSBC Australia to file a defence in response to data that has been identified as inaccurate.
34. On 10 March 2025, Ashurst sent a letter to Clayton Utz, a copy of this letter is exhibited at pages **200-202** of **Exhibit FLH-1**. That letter states that ASIC's foreshadowed amendments to its Amended Statement of Claim may result in HSBC Australia requiring more time to prepare its defence.
35. On 24 April 2025, Ashurst sent a letter to Clayton Utz indicating the possible delay in filing the defence, a copy of this letter is exhibited at pages **203-204** of **Exhibit FLH-1**. That letter explains that HSBC Australia had been conducting a look back in respect of the Customer Data and had identified inaccuracies. As a consequence of the Christmas period and closing of the Courts, and HSBC Australia being required to complete production under the ASIC Notices notwithstanding the commencement of the proceedings, that letter foreshadowed that HSBC Australia would likely require additional time to file its defence.
36. On 1 May 2025, Clayton Utz sent a letter to Ashurst, a copy of which is exhibited at page **205** of **Exhibit FLH-1**. That letter stated that ASIC "expects the defence to be filed on 8 May 2025".
37. On 9 May 2025, Ashurst sent a letter to Clayton Utz, a copy of which is exhibited at pages **206-210** of **Exhibit FLH-1**. In that letter, HSBC Australia proposed to either provide ASIC with an amended version of Schedules F and H, along with consent orders to vary the existing timetable, or for HSBC Australia to file its defence and to plead denials in respect of the current information in Schedules F and H.
38. On 12 May 2025, Clayton Utz sent a letter to Ashurst, a copy of which is exhibited at pages **211-212** of **Exhibit FLH-1**. In that letter, ASIC requested that HSBC Australia

provide copies of Schedules F and H, as amended by HSBC Australia, and indicate when it will be in a position to file its defence.

39. On 13 May 2025, Ashurst sent a letter to Clayton Utz stating that HSBC Australia anticipated that it would be in a position to file its defence by 13 June 2025 and that it would provide the amended Customer Data as soon as it is available. A copy of that letter is exhibited at pages **213-214** of **Exhibit FLH-1**.
40. On 13 May 2025, Clayton Utz sent a letter to Ashurst asking when the amended Customer Data and revised versions of Schedules F and H would be provided to ASIC. A copy of that letter is exhibited at page **215** of **Exhibit FLH-1**.
41. On 16 May 2025, Ashurst sent a letter to Clayton Utz indicating that HSBC Australia anticipated that it would be in a position to provide the corrected Customer Data and its revised versions of Schedules F and H by 10 June 2025. A copy of that letter is exhibited at page **216** of **Exhibit FLH-1**.
42. On 20 May 2025, Clayton Utz sent a further letter to Ashurst, a copy of which is exhibited at pages **217-218** of **Exhibit FLH-1**.
43. I am informed by Mr Sharma and believe that HSBC Australia will be in a position to complete and finalise its review and correction of the Customer Data by 10 June 2025. That is, by that date HSBC Australia will have completed the steps that are currently being undertaken by HSBC Australia to address the inaccuracies in the Customer Data as described in paragraph 31. Accordingly, HSBC Australia respectfully seeks an extension of the date for the filing of its defence in these proceedings to 13 June 2025, so that the defence can respond to ASIC's Amended Statement of Claim by reference to accurate and complete Customer Data.

Sworn by the deponent
at Sydney
in New South Wales
on 23 May 2025
Before me:

Signature of deponent



Signature of witness
Sheriffah Napadow

EXHIBIT FLH-1

No. VID 1368 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

Australian Securities and Investments Commission

Plaintiff

HSBC Bank Australia Limited (ACN 006 434 162)

Defendant

This is the Exhibit marked "FLH-1" referred to the Affidavit of Felicity Louise Healy
sworn on 23 May 2025



.....
Signature of witness



.....
Name of witness

Filed on behalf of (name & role of party) HSBC Bank Australia Limited (ACN 006 434 162), Defendant

Prepared by (name of person/lawyer) Felicity Healy

Law firm (if applicable) Ashurst Australia

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Investments Commission

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HSBC Bank Australia Limited
Tower 1, International Towers Sydney
Level 37, 100 Barangaroo Avenue
SYDNEY NSW 2000

By email only:
CC:



Our Reference: CAS-147221-Q0Y6D2

24 April 2024

Att: Mr



Dear Sir,

Notice issued under s30 of the Australian Securities and Investments Commission Act 2001 (Cth)

I enclose a notice issued under s30 of the *Australian Securities and Investments Commission Act 2001 (Cth)* (**ASIC Act**), requiring HSBC Bank Australia Limited (**the Company**) to produce certain books to ASIC. These books relate to an investigation under section 13 of the ASIC Act into suspected contraventions by the Company of section 912A of the *Corporations Act 2001 (Cth)* from at least 1 January 2021.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$751,200 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at:

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary*

confidential LPP disclosure agreement: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] on [REDACTED] or by email at [REDACTED]

Yours faithfully

[REDACTED]

[REDACTED]

Senior Investigator, Investigation & Enforcement Action
Enforcement & Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2423059

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 37, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HSBC**) from 1 January 2021 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HSBC customers, you are notified that, under s30 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: Level 5, 100 Market Street, Sydney NSW 2000, via secure file transfer link or via email to [REDACTED]
by: 4:00 pm AEDT
on: 3 May 2024

the following books relating to the affairs of the body corporate, HSBC:

All books listed in the document titled 'Scams Review: ADI Document Request - Stream 1' that is attached to this notice.

[REDACTED]

[REDACTED]
A delegate of the
Australian Securities and Investments Commission

24 April 2024
Date

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$751,200
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1,878,000
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$751,200



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

HSBC Bank Australia Limited
Tower 1, International Towers Sydney
Level 37, 100 Barangaroo Avenue
SYDNEY NSW 2000

By email only:
CC:



Our Reference: CAS-147221-Q0Y6D2

24 April 2024

Attention: Mr



Dear Sir

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to . Please address the written statement to the attention of

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

If you have any questions about the Direction, please contact on or by email at

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

Yours sincerely



Senior Investigator, Investigation & Enforcement Action
Enforcement & Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2423058

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (CTH)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC Bank Australia Limited
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C (1) of the *Corporations Act 2001* (Cth) that you are directed to give:

to: Australian Securities and Investments Commission
at: email to [REDACTED]
by: 4:00 pm AEDT
on: 3 May 2024

a written statement containing the information about the financial services business carried on by you, that would reasonably be required to:

Item
a. Complete each of the data fields described in the 'Data Dictionary' worksheet, contained in the document titled 'Scams Review - Data Dictionary' that is included as Attachment A to this Direction.
b. Answer each of the questions described in the document titled 'Scams Review: ADI Questionnaire - Stream 1' that is included as Attachment B to this Direction.
c. Provide the requested information for four case studies described in the document titled 'Scams Review: ADI Case Studies - Stream 1' that is included as Attachment C to this Direction.

Date: 24 April 2024

Signed: [REDACTED]

A delegate of the Australian Securities and Investments Commission.

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;
- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
 - (b) omits or authorises the omission of a matter or thing from the document; and
- the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of any matter or thing from the document; and

the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

HSBC Bank Australia Limited
Tower 1, International Towers Sydney
Level 37, 100 Barangaroo Avenue
SYDNEY NSW 2000

Our Reference: CAS-147221-Q0Y6D2

By email only:



13 May 2024

Att:



Dear Sir

Notice issued under s30 of the *Australian Securities and Investments Commission Act 2001* (Cth)

I enclose a notice issued under section 30 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), requiring HSBC Bank Australia Limited (**the Company**) to produce certain books to ASIC. These books relate to an investigation under section 13 of the ASIC Act into suspected contraventions by the Company of section 912A of the *Corporations Act 2001* (Cth) from at least 1 January 2021 by failing to ensure that financial services were provided efficiently, honestly and fairly in connection with scams involving HSBC customers.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$751,200 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] or [REDACTED] or by email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]
Investigator, Investigation & Enforcement Action
Enforcement & Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2423295

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 37, 100 Barangaroo Avenue
SYDNEY NSW 2000

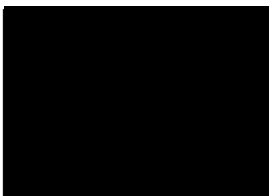
Australian financial services licence number: 232 595

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HSBC**) from 1 January 2021 and ongoing, by failing to ensure that financial services were provided efficiently, honestly and fairly in connection with scams involving HSBC customers, you are notified that, under section 30 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: Level 5, 100 Market Street, Sydney NSW 2000, via secure file transfer link or via email
[REDACTED]
by: 10:00 am AEDT
on: 24 May 2024

the following books relating to the affairs of the body corporate, HSBC:

All books described in the schedule attached to this notice.



13 May 2024

[REDACTED]
A delegate of the
Australian Securities and Investments Commission

Date

SCHEDULE

This is the schedule to the notice dated 13 May 2024, bearing identifier NTC2423295, issued to HSBC Bank Australia Limited (ACN 006 434 162) pursuant to section 30 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Definitions

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

HSBC Asia means the Hongkong and Shanghai Banking Corporation Limited.

HSBC Holdings PLC means the parent company of HBAU and HSBC Asia.

IEM Slide Pack means the slide deck titled 'HSBC Bank Australia Limited – Presentation to ASIC' that was presented to representatives of ASIC during a meeting on 10 April 2024; and a glossary of the terms that are used in the HSBC Bank Australia Limited – Presentation to ASIC' document.

WPB means the 'Wealth and Personal Banking' division of HBAU.

The Company is required to produce:

1. The IEM Slide Pack.
2. A current corporate chart showing the relationship between HBAU and its parent company HSBC Holdings PLC as well as the top-level material subsidiaries of HSBC Holdings PLC (the sibling entities of HSBC Asia).
3. A copy of the document titled "Scams Gap Analysis 1" dated 28 June 2023;
4. A copy of the document titled "Scams Scope – Convergent Assessment" dated 14 November 2023;
5. Copies of the Scams Project Working Group meeting minutes;
6. Copies of the AUH Scams Capability Uplift Steering Committee meeting minutes;
7. Copies of the AUH Scams Capability Uplift Steering Committee PowerPoint Packs;
8. A copy of the document entitled "Scams Project Kick-Off v 1.0";
9. Copies of the Scams EXCO Pulse Meeting Packs.
10. Copies of all drafts of the report titled 'WPB Scams and Fraud – Timeline of events' prepared by Will Tully (HSBC Asia Head of Fraud, WPB);
11. A copy of the report titled "HSBC Australia Scams and Fraud" dated 15 April 2024" including its appendix titled "Australia Fraud and Scams" Management Response April 2024.

12. A copy of the final version of the Global WPB External Fraud Strategy document, dated April 2021, along with copies of the Appendices to this document as set out below:
 - a) External Fraud Deep Dive (October 2020);
 - b) Scam Deep Dive (November 2020);
 - c) 2021 Technology Investment Strategy;
 - d) Customer Communication Strategy.
13. A copy of the final version of the Global WPB External Fraud Strategy document, dated May 2022, along with copies of the Appendices to this document as set out below:
 - a) Strategy Appendix: 2021 Performance and Deliverables Assessment;
 - b) 2021 Customer Communications Strategy;
 - c) Fraud Governance Framework;
 - d) Governance Conformance Review;
 - e) Control Frameworks;
 - f) Initiative Summary;
 - g) Global Card Scheme Waivers.
14. A copy of the final version of the "Global WPB External Fraud Strategy document, dated June 2023", along with copies of the Appendices to this document as set out below:
 - a) Strategy Appendix: 2022 Performance Review;
 - b) Emerging Technology Risks;
 - c) Fraud Governance Framework;
 - d) Control Frameworks.
15. A copy of the final version of the "ASP WPB External Fraud Strategy 2021-22", along with copies of the Appendices to this document as set out below:
 - a) ASP FMS Strategy Deliverables 2020;
 - b) ASP FMS 2021 Strategy Deliverables;
 - c) ASP RAS Threshold 2021.
16. A copy of the PowerPoint document titled "ASP Fraud Strategy 2021".
17. A copy of the PowerPoint document titled "ASP Fraud Risk Management Strategy – May'22" dated May 2022 (as presented to the ASP Fraud SteerCo in May 2022).

18. A copy of the document titled "Fraud Management Update" dated March 2023 (as presented to the ASP Risk Management Meeting in March 2023) along with copies of the Appendices to this document as set out below:

- a) Full List of Unfunded 2023 Fraud VSIP Requests;
- b) Liability Model Loss Estimations.

19. Copies of the following documents covering the HBAU WPB External Fraud strategy for 2021, 2022 and 2023:

- a) PowerPoint document titled "Fraud Mitigation Strategic Focus 2021" dated 15 March 2021;
- b) PowerPoint document titled "Fraud Mitigation Strategy – Australia: Scams Overview" dated 18 March 2021;
- c) PowerPoint document titled "2022 – AUH WPB Fraud Strategy Workshop v2.3" dated 16 August 2022;
- d) PowerPoint document titled "HBAU WPB Fraud Risk Management Strategy" dated May 2024 (as presented to the HBAU Board Risk Committee in May 2024);

20. Copies of the HSBC Australia Fraud Risk Steering Committee meeting packs and minutes from 2021 onwards.

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$751,200
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1,878,000
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$751,200



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

By email only: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

11 July 2024

Att: Mr [REDACTED] General Counsel HSBC

Dear Sir,

Notice issued under s33 of the Australian Securities and Investments Commission Act 2001 (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001 (Cth)* (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$751,200 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at:

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED] or on [REDACTED]

Yours faithfully

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2424202

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) from 1 January 2020 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HBAU customers, you are notified that, under s33 of the ASIC Act, you are required to produce:

to: [REDACTED]
by: 4:00 pm;
on: 8 August 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or
via secure file transfer link;

the following books relating to the affairs of the body corporate, HSBC Bank Australia Limited (**HBAU**):

All books described in the schedule attached to this notice.

[REDACTED]

[REDACTED]
A delegate of the Australian
Securities and Investments Commission

11 July 2024

Date

SCHEDULE

This is the schedule to the notice dated 11 July 2024, bearing identifier NTC2424202, issued to HSBC Bank Australia Limited, ACN 006 434 162 pursuant to section 33 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Definitions

April 2024 Section 912C Notice means the notice issued to HBAU dated 24 April 2024 with the barcode NTC2423058.

Global External Fraud Policy means the policy set out in document BCB.1000.0001.0524, including any earlier versions of, amendments or updates to, or replacements for, that policy.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

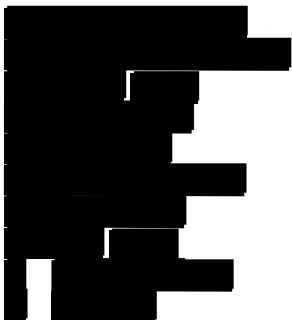
July 2024 Section 912C Notice means the notice issued to HBAU dated 11 July 2024 with the barcode NTC2424177.

May 2024 IEM Presentation means document BCB.1002.0001.0010.

May 2024 Section 30 Notice means the notice issued to HBAU dated 13 May 2024 with the barcode NTC2423295.

Phish and Smish Control Framework means the framework described in Appendix 4 of document HBA.0001.0001.0018, including any earlier versions of amendments or updates to, or replacements for, that framework.

Relevant Customers means each of the following persons:



Relevant Period means 1 January 2020 to 11 July 2024.

Scam Strategy & Control Framework means the strategy and framework described in document BCB.1000.0001.0277, including any earlier versions of, amendments or updates to, or replacements for, that strategy and/or framework.

HBAU is required to produce the following books:

1. All policy and/or procedure documents applicable to HBAU at any time during the Relevant Period which record the Scam Strategy & Control Framework.
2. All documents recording any "market assessments" identified in HBAU's response to item 1 of the July 2024 Section 912C Notice.
3. All policy and/or procedure documents applicable to HBAU at any time during the Relevant Period which record the Phish and Smish Control Framework.

4. All versions of the Global External Fraud Policy that were in force during any part of the Relevant Period, including all appendices and other documents expressly referred to in those versions.
5. All documents embedded in the HSBC Australia Fraud Risk Steering Committee meeting packs produced in response to the May 2024 Section 30 Notice.
6. Any documents identified in HBAU's response to item 4 of the July 2024 Section 912C Notice.
7. All "Referrals for Action" (as described in HBAU's response to item 5(c) in questionnaire attached to the April 2024 Section 912C Notice) that were issued during the Relevant Period.
8. The "KPMG CPS220 Review" referred to on pages 18 and 19 of document HBA.0001.0001.0181.
9. Any:
 - (a) documents identified in HBAU's response to item 10(a) in the July 2024 Section 912C Notice; and
 - (b) communications referred to in HBAU's response to item 10(b) in the July 2024 Section 912C Notice.
10. All policy and/or procedure documents that applied to employees in HBAU's "Contact Centre" during the Relevant Period, which record the "contact centre process flow" (referred to on pages 7 to 13 of the May 2024 IEM Presentation) followed by those employees during the Relevant Period.
11. All training materials provided to employees in HBAU's "Contact Centre" during the Relevant Period, which relate to the "contact centre process flow" referred to on pages 7 to 13 of the May 2024 IEM Presentation.
12. A copy of all standard form agreements used by HBAU during the Relevant Period to contract with new or existing customers of its Wealth and Personal Banking division and pursuant to which HBAU would make a bank account available to those customers.
13. All versions of the document described as "PIM - Getting customers back to banking after fraud or scams (KM1141967)" (referred to on page 14 of the May 2024 IEM presentation) that were used by employees of HBAU during the Relevant Period.
14. The slide pack relating to scams and/or fraud presented to "Runway Steer Co" on 20 June 2023, and any minutes recording the meeting at which this occurred.
15. For meetings of the HBAU Board held during the Relevant Period, copies of the board papers and meeting minutes that refer to:
 - (a) any scams and/or fraud involving customers of HBAU's Wealth and Personal Banking division; and/or
 - (b) HBAU's scam and/or fraud prevention and detection systems or practices.
16. For meetings of the HBAU Board Risk Committee held during the Relevant Period, copies or any meeting papers and meeting minutes that refer to:
 - (a) any scams and/or fraud involving customers of HBAU's Wealth and Personal Banking division; and/or
 - (b) HBAU's scam and/or fraud prevention and detection systems or practices.

17. The document referred to as "Email from Matt 2Jan24" on page 10 of document HBA.0001.0001.0162.
18. All documents comprising the record of any investigation carried out by HBAU in relation to possible scams involving the Relevant Customers.

END OF SCHEDULE

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$751,200
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1,878,000
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$751,200



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

11 July 2024

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

By email only: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Att: Mr [REDACTED] General Counsel HSBC

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**), to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm on 8 August 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]
or on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2424177

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (Cth)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission;
at: via email to [REDACTED]
by: 4:00 pm; and
on: 8 August 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 11 July 2024

Signed:

[REDACTED]

A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 11 July 2024 bearing identifier NTC2424177, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Definitions

April 2024 IEM Presentation means document HBA.0001.0001.0145.

April 2024 Section 912C Notice means the notice issued to HBAU dated 24 April 2024 with the barcode NTC2423058.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

May 2024 Section 30 Notice means the notice issued to HBAU dated 13 May 2024 with the barcode NTC2423295.

Relevant Customers means each of the following persons:

■	██████████
■	██████████████████
■	██████ ██████
■	██████████
■	██████████
■	██████████████████
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■	██████████████████
■	██████████

Relevant Period means 1 January 2020 to 11 July 2024.

Scam Strategy & Control Framework means the strategy and framework described in document BCB.1000.0001.0277, including any earlier versions of, amendments or updates to, or replacements for, that strategy and/or framework.

Scams and Fraud Paper means document HBA.0001.0001.0192.

Scams Deep Dive Paper means document HBA.0001.0001.0018.

September 2023 FSC Pack means document HBA.0001.0001.0066.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. State all dates at which, during the Relevant Period, a "market assessment" was undertaken by or for HBAU in relation to the Australian market for the purpose of the Scam Strategy & Control Framework.
2. Complete each of the fields set out in the following worksheets in the Excel Spreadsheet titled '**NTC2424177 - Attachment A**':

- (a) Fraud Control; and
 - (b) Mule Control.
3. Provide an explanation of what is meant by the phrase "no performance for RA rules due to unavailability of fraud tagging" which appears in the HSBC Australia Fraud Risk Steering Committee meeting packs (from September 2023 onwards) that were produced in response to the May 2024 Section 30 Notice.
 4. Provide a definition of each of the five "typologies" listed on page 23 of the September 2023 FSC Pack and identify any policy or procedure documents in which these definitions are set out:
 - (a) PT/Mule;
 - (b) Scams;
 - (c) Application;
 - (d) Payment & Cheques; and
 - (e) Card.
 5. Describe all steps taken by HBAU during the Relevant Period to address the risk posed to its customers by the practice of alpha-code spoofing, and identify the date(s) on which each of those steps were taken.
 6. Provide a description of the process(es) by which HBAU, during the Relevant Period, identified mule (or passthrough) accounts. To the extent that different processes were carried out during different parts of the Relevant Period, identify the period during which each process described was carried out.
 7. In relation to the digital account opening process for new customers that is depicted on pages 13 to 15 of the April 2024 IEM Presentation:
 - (a) identify the period during which that process was in place; and
 - (b) to the extent the period identified in response to 7(a) is not the entire Relevant Period, provide a detailed description of the process(es) in place during the remainder of the Relevant Period.
 8. Describe each step of the process(es) by which, during the Relevant Period, HBAU customers could log on to HBAU's online banking platform using an internet browser. To the extent that different processes applied at different times during the Relevant Period, identify the period in which each process described was in place.
 9. For a person who, during the Relevant Period, had logged on to HBAU's online banking platform using an internet browser and as a result had access to a bank account, state whether that person:
 - (a) required any multifactor authentication code (or similar) in order to facilitate the making of a payment from that bank account; and
 - (b) would be shown, as part of the process of facilitating the making of a payment from that bank account, any messages or other content designed to prompt them to consider whether the payment was being made as a result of a scam or other fraudulent activity.

To the extent that different answers to 9(a) and 9(b) above apply to different parts of the Relevant Period, identify the period to which each answer relates.
 10. State whether, during the Relevant Period, HBAU sent targeted educational and/or warning communications on the topic of fraud and/or scams to customers it had identified as having a heightened vulnerability to fraud and/or scams, and if it did:

- (a) explain the process by which the targeted customers were identified, and identify any documents which set out or record this process; and
 - (b) identify the date(s) on which these targeted communications were sent to customers.
11. State the earliest instance, and the customer's identity, in the Relevant Period (of which HBAU is aware) in which one of its customers was the victim of:
- (a) an "impersonation scam - desktop" (as described on page 43 of the April 2024 IEM Presentation) in which the customer was initially contacted by the scammer by way of outbound call;
 - (b) an "impersonation scam - desktop" (as described on page 43 of the April 2024 IEM Presentation) in which the customer was initially contacted by the scammer by way of SMS;
 - (c) an "impersonation scam - mobile re-provisioning" (as described on page 44 of the April 2024 IEM Presentation) in which the customer was initially contacted by the scammer by way of outbound call; and
 - (d) an "impersonation scam - mobile re-provisioning" (as described on page 44 of the April 2024 IEM Presentation) in which the customer was initially contacted by the scammer by way of SMS.
12. State:
- (a) the full-time equivalent number of employees in HBAU's Fraud Operations function during the Relevant Period (to the extent the number varied over the Relevant Period, state the full-time equivalent number for each part of the Relevant Period);
 - (b) the number of "alerts triggered by rules" (as referred to in HBAU's response to item 3 in the questionnaire attached to the April 2024 Section 912C Notice) that were raised to the Fraud Operations function during each month in the Relevant Period; and
 - (c) an explanation as to why the "impact of the rules" in the SAS-EFM and ARIC systems was said in the Scams and Fraud Paper (page 3) to be "heavily dependent on the effectiveness of...the capacity/speed at which alert volumes are handled by Fraud Operations".
13. For each of the Relevant Customers:
- (a) identify the date and time (specifying either Australian Eastern Standard Time or Australian Eastern Daylight Time) at which the customer first reported to HBAU the possibility that they were the victim of a scam;
 - (b) identify the date and time (specifying either Australian Eastern Standard Time or Australian Eastern Daylight Time) of any funds recall requests made by HBAU in relation to the possible scam reported by the customer;
 - (c) state whether, as a result of HBAU becoming aware of the possible scam, the customer's access and/or use of their HBAU bank account(s) was restricted in any way, and if it was, identify the date on which this occurred; and
 - (d) if the customer's access and/or use of their HBAU bank account(s) was restricted in any way, identify the date upon which full access and/or use of the bank accounts was reinstated.

14. In relation to the Scams Deep Dive Paper:

- (a) explain what is the difference between the scam control tiers identified as Bronze, Silver and Gold (including whether it is a difference in funding, implemented controls, both of these factors, or anything else);
- (b) to the extent not covered by 14(a), provide a description of the controls which would be implemented for each of the Bronze, Silver and Gold tier;
- (c) explain what scam controls would have been put in place for HBAU and in what timeframes if they had been graded for Silver or Gold tier;
- (d) what is the cost difference between implementing each of the scam control tiers;
- (e) how often were the trigger questions completed and/or reviewed; and
- (f) what guidance was provided to HBAU staff when answering the trigger questions.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or

- (b) omits or authorises the omission of any matter or thing from the document; and

the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

19 September 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED] General Counsel

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm on 27 September 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]
or on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2425463

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (Cth)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission;
at: via email to [REDACTED]
by: 4:00pm; and
on: 27 September 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 19 September 2024

Signed:

[REDACTED]

[REDACTED]
A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 19 September 2024 bearing identifier NTC2425463, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Definitions

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

MTA means a money transmission account, being an account with HBAU upon which money may be transferred to or from that account.

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU a Scam or Fraud.

Relevant Period means 1 January 2022 to 30 June 2024.

Scam or Fraud means a loss or potential loss suffered by a Relevant Customer arising from a payment from an MTA.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. Provide the following information during the Relevant Period where a Relevant Customer has made contact with HBAU about a Scam or Fraud, by completing the attached Excel spreadsheet titled '**NTC2425463 – Attachment A**':
 - (a) Customer Name;
 - (b) Date the Scam or Fraud occurred;
 - (c) Date at which a customer first reported to HBAU the possibility that they were the victim of a Scam or Fraud;
 - (d) Date the customer's account was restricted as a result of HBAU becoming aware of the Scam or Fraud (if applicable);
 - (e) Date HBAU first contacted the customer after it commenced an investigation into the report or notification by the customer in relation to the possibility of being a victim of a Scam or Fraud at Column D;
 - (f) Date HBAU contacted the customer advising that it needs more time to complete its investigation in relation to the report lodged by the customer at Column D (if applicable);
 - (g) Date HBAU contacted the customer to notify the customer of the outcome of the investigation in relation to the Scam or Fraud notified by the customer to HBAU at Column D; and
 - (h) Date upon which the customer's full access and/or use of the relevant MTA was reinstated (if applicable).

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of any matter or thing from the document; and

the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

By email only: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

30 September 2024

Att: Mr [REDACTED] General Counsel

Dear Sir,

Notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$751,200 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at:

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2425627

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) from 1 January 2020 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HBAU customers, you are notified that, under s33 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: 4:00 pm (AEDT);
on: 21 October 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of the body corporate, HSBC Bank Australia Limited (**HBAU**):

All books described in the schedule attached to this notice.

[REDACTED]
[REDACTED]

30/09/2024

Date

A delegate of the Australian
Securities and Investments Commission

SCHEDULE

This is the schedule to the notice dated 30 September 2024, bearing identifier NTC2425627, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**), pursuant to section 33 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Definitions

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

Relevant Period means 1 January 2020 to 30 September 2024.

HBAU is required to produce:

Mule accounts

1. To the extent not previously produced to ASIC, all documents referred to in HBAU's response to item 1 of the s912C notice NTC2425621 dated 30 September 2024.

Back to banking

2. To the extent not previously produced to ASIC, all documents referred to in HBAU's response to item 2 of the s912C notice NTC2425621 dated 30 September 2024.

Slow investigation outcome reporting

3. To the extent not previously produced to ASIC, documents recording or describing the management of the "Issues" identified as "I-00200421" and "I-00228751" referred to on page 12 of HBA.0001.0001.0455.

APRA prudential standard materials

4. A copy of all documents comprising the finalised 'CPS 220 Triennial Review' undertaken by KPMG in 2020.
5. To the extent not previously produced to ASIC, all documents referred to in HBAU's response to item 3 of the s912C notice NTC2425621 dated 30 September 2024.
6. A copy of all documents recording the results of any review undertaken, during the Relevant Period, for the purpose of complying with paragraph 44 of Prudential Standard CPS 220.

END OF SCHEDULE

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$751,200
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1,878,000
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$751,200



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

30 September 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED] General Counsel

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm (AEDT) on 21 October 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2425621

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (Cth)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission;
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 21 October 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 30 September 2024

Signed: [REDACTED]

[REDACTED]
A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 30 September 2024 bearing identifier NTC2425621, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the Corporations Act 2001 (Cth).

Definitions

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

MTA means a money transmission account, being an account with HBAU upon which money may be transferred to or from that account.

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU a Scam or Fraud.

Relevant Period means 1 January 2020 to 30 September 2024.

Scam or Fraud means a loss or potential loss suffered by a Relevant Customer arising from a payment from an MTA.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

Mule accounts/slow investigation outcome reporting

1. Provide a list (including dates) of any documents defining any standards or service level agreements that were in force during any part of the Relevant Period with respect to the investigation and management of suspected Scam or Fraud, passthrough or mule cases.

Back to banking

2. Provide a list (including dates) of all policy, procedure, standards, guidelines and training documents that were in force during any part of the Relevant Period in relation to the reinstatement of access to a HBAU customer's bank account(s) after restrictions had been put in place because of a suspected Scam or Fraud.

APRA prudential standard materials

3. Provide an explanation as to why slide 18 of document HBA.0001.0001.0181 identifies the "KPMG CPS220 Review" as a "source of requirement" for a "scam capability" described as "scams resourcing and people capability". Please identify all documents relevant to this explanation.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of any matter or thing from the document; and

the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

11 October 2024

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: Mr [REDACTED] General Counsel

Dear Sir,

Notice issued under s33 of the Australian Securities and Investments Commission Act 2001 (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001 (Cth)* (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$751,200 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Books in the company's possession, custody or control

The notice requires the Company to produce the books in the Company's possession, including books in its custody or control. This includes books that the Company physically possesses, whether or not it has a legal right to possess them. The Company must also exercise any right or power it may have to recover a book or document that is in the possession of a third party, including books held overseas.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal

professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2425821

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) from 1 January 2020 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HBAU customers, you are notified that, under s33 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: 4:00 pm (AEDT);
on: 1 November 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of the body corporate, HSBC Bank Australia Limited (**HBAU**):

1. To the extent not already produced or to be produced to ASIC in response to the following notices, all documents (including by reference to Document IDs) referred in items 1 to 4 of the s912C notice NTC2425818 issued to HBAU dated 11 October 2024.

- (a) NTC2423059;
- (b) NTC2423295;
- (c) NTC2424202; and
- (d) NTC2425627.

[REDACTED]
[REDACTED]

11/10/2024

Date

A delegate of the Australian
Securities and Investments Commission

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$751,200
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1,878,000
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$751,200



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

11 October 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED] General Counsel

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm on 1 November 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2425818

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (CTH)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 1 November 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 11 October 2024

Signed:

[REDACTED]

[REDACTED]

A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 11 October 2024 bearing identifier NTC2425818, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Definitions

2016 Code means the ePayments Code published 29 March 2016.

2022 Code means the ePayments Code effective 2 June 2022.

Codes means the 2016 Code and 2022 Code.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

MTA means a money transmission account, being an account with HBAU upon which money may be transferred to or from that account.

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU an unauthorised transaction.

Relevant Period means 1 January 2022 to 31 August 2024.

Unauthorised transaction means an unauthorised transaction for the purposes of clause 38 of the 2016 Code or clause 18 of the 2022 Code.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. Provide the following information where a report has been received by HBAU of an unauthorised transaction on an account held by a Relevant Customer during the Relevant Period, by completing the attached Excel spreadsheet titled '**NTC2425818 – Attachment A**':
 - (a1) Customer ID;
 - (a2) Customer Name;
 - (b) Date the unauthorised transaction occurred;
 - (c) Date HBAU first received a report of the unauthorised transaction;
 - (d1) Earliest date one or more MTAs of the Relevant Customer were restricted or blocked (including Internet/mobile banking) as a result of HBAU becoming aware of the unauthorised transaction (if applicable);
 - (d2) Nature of relevant restrictions or blocks applied to Relevant Customer's account after HBAU became aware of the unauthorised transaction (if applicable);
 - (e1) Date HBAU first contacted the Relevant Customer after it commenced an investigation into the report in relation to the possibility of an unauthorised transaction;

- (e2) Number of days between (c) and (e1) (if applicable);
- (f1) Did HBAU advise the Relevant Customer in writing of the need for more time to complete investigation into the reported unauthorised transaction? (Y/N);
- (f2) Date HBAU advised the Relevant Customer in writing that it needed more time to complete its investigation in relation to the reported unauthorised transaction (if applicable) (leave blank if N/A) (DD/MM/YYYY);
- (f3) Document ID of HBAU's advice in writing to Relevant Customer that more time needed to complete its investigation referred to in (f2);
- (f4) Number of days between (c) and (f2) (if applicable);
- (g1) Date HBAU completed its investigation of the reported unauthorised transaction (DD/MM/YYYY);
- (g2) Document ID of HBAU's investigation report referred to in (g1);
- (g3) Date HBAU advised the Relevant Customer in writing the outcome of the report of the unauthorised transaction and the reasons for the outcome (DD/MM/YYYY);
- (g4) Number of days between (c) and (g1);
- (g5) Number of days between (c) and (g3);
- (g6) Nature of the unauthorised transaction as determined by HBAU's investigation, eg Digital Online/Mobile, smishing, or token reactivation;
- (g7) Were there "exceptional circumstances" for the purposes of clause 38.5 of the 2016 Code or clause 18.2 of the 2022 Code? (Y/N);
- (g8) Brief description of the "exceptional circumstances" referred to in (g7) (if applicable);
- (g9) Document ID of document which records any determination by HBAU that "exceptional circumstances" referred to in (g7) was applicable;
- (h1) Date HBAU notified the Relevant Customer of the process to reinstate full access and/or use of relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) (if applicable) (DD/MM/YYYY);
- (h2) Date upon which the Relevant Customer's full access and/or use of the relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) was reinstated (if applicable) (DD/MM/YYYY);
- (h3) Number of days between (d1) and (h1) (if applicable);
- (h4) Number of days between (d1) and (h2) (if applicable);
- (i) Relevant Customer's total loss (net of any recovery outcome) not including any goodwill payment; and
- (j) Any goodwill payment amount made to the Relevant Customer.

2. Provide an explanation as to the policy and procedure by which HBAU, during the Relevant Period, reported on and tracked the compliance (or non-compliance) with the processes (including applicable timeframes) specified in clauses 38.4, 38.5 and 38.9 of the 2016 Code and/or clauses 18.1, 18.2 and 18.7 of the 2022 Code, in respect of HBAU's investigation into reports of unauthorised transactions (including the relevant communications to customers referred to in those clauses of the Codes). Identify and list the relevant documents that record the policy and procedure referred to in your answer.
3. Identify and provide a list (including the effective dates) of any policies, procedures, standards, guidelines, training documents or service level agreements that were in force during any part of the Relevant Period with respect to the investigation, management, and reporting of unauthorised transactions reported or notified to HBAU for the purpose of clauses 38.4 to 38.10 of the 2016 Code and/or clauses 18 of the 2022 Code, including the tracking and reporting internally of relevant timeframes under the 2016 Code and the 2022 Code.
4. Provide an explanation as to the statement in the Program Runway Steering Committee Meeting minutes dated 20 June 2023, **HBA.0001.0001.1382** under the heading "R4 – ePayments Code" as set out below:

"ePayments code is about customers querying unauthorized payments or transactions. The old requirement was HSBC to respond in 52 days.

We had 1 year to comply with the new requirement to be able to respond in 21 days. This expired on 2 JUN23. The Code calls for a standard response time of 21 days, but can be extended to 45 days."

In your response, identify and list any documents necessary to explain your answer, and include explanations for the following:

- (a) where the requirement to respond in 52 days is found;
- (b) what the reference to the "new requirement to be able to respond in 21 days" is a reference to;
- (c) what the reference to having "1 year to comply with the new requirement" is a reference to; and
- (d) what the reference to "This expired on 2 JUN23" is a reference to.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of any matter or thing from the document; and the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

18 October 2024

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: Mr [REDACTED] General Counsel

Dear Sir,

Notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$751,200 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Books in the company's possession, custody or control

The notice requires the Company to produce the books in the Company's possession, including books in its custody or control. This includes books that the Company physically possesses, whether or not it has a legal right to possess them. The Company must also exercise any right or power it may have to recover a book or document that is in the possession of a third party, including books held overseas.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426036

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) from 1 January 2020 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HBAU customers, you are notified that, under s33 of the ASIC Act, you are required to produce:

To: [REDACTED]
at: 4:00 pm (AEDT);
on: 8 November 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of the body corporate, HSBC Bank Australia Limited (**HBAU**):

1. To the extent not already produced or to be produced to ASIC in response to the following notices, all documents (including by reference to Document IDs) referred in items 1 to 3 of the s912C notice NTC2426028 issued to HBAU dated 18 October 2024:
 - (a) NTC2423059;
 - (b) NTC2423295;
 - (c) NTC2424202;
 - (d) NTC2425627; and
 - (e) NTC2425821.

[REDACTED]
[REDACTED]

18 October 2024

Date

A delegate of the Australian
Securities and Investments Commission

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$751,200
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1,878,000
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$751,200



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

18 October 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED] General Counsel

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm on 8 November 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426028

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (CTH)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 8 November 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 18 October 2024

Signed:

[REDACTED]

[REDACTED]

A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 18 October 2024 bearing identifier NTC2426028, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Definitions

2016 Code means the ePayments Code published 29 March 2016.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

MTA means a money transmission account, being an account with HBAU upon which money may be transferred to or from that account.

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU an unauthorised transaction.

Relevant Period means 1 January 2020 to 31 December 2021.

Unauthorised transaction means an unauthorised transaction for the purposes of clause 38 of the 2016 Code.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. Provide the following information where a report has been received by HBAU of an unauthorised transaction on an account held by a Relevant Customer during the Relevant Period, by completing the attached Excel spreadsheet titled '**NTC2426028 – Attachment A**':
 - (a1) Customer ID;
 - (a2) Customer Name;
 - (b) Date the unauthorised transaction occurred;
 - (c) Date HBAU first received a report of the unauthorised transaction;
 - (d1) Earliest date one or more MTAs of the Relevant Customer were restricted or blocked (including Internet/mobile banking) as a result of HBAU becoming aware of the unauthorised transaction (if applicable);
 - (d2) Nature of relevant restrictions or blocks applied to Relevant Customer's account after HBAU became aware of the unauthorised transaction (if applicable);
 - (e1) Date HBAU first contacted the Relevant Customer after it commenced an investigation into the report in relation to the possibility of an unauthorised transaction;
 - (e2) Number of days between (c) and (e1) (if applicable);

- (f1) Did HBAU advise the Relevant Customer in writing of the need for more time to complete investigation into the reported unauthorised transaction? (Y/N);
 - (f2) Date HBAU advised the Relevant Customer in writing that it needed more time to complete its investigation in relation to the reported unauthorised transaction (if applicable) (leave blank if N/A) (DD/MM/YYYY);
 - (f3) Document ID of HBAU's advice in writing to Relevant Customer that more time needed to complete its investigation referred to in (f2);
 - (f4) Number of days between (c) and (f2) (if applicable);
 - (g1) Date HBAU completed its investigation of the reported unauthorised transaction (DD/MM/YYYY);
 - (g2) Document ID of HBAU's investigation report referred to in (g1);
 - (g3) Date HBAU advised the Relevant Customer in writing the outcome of the report of the unauthorised transaction and the reasons for the outcome (DD/MM/YYYY);
 - (g4) Number of days between (c) and (g1);
 - (g5) Number of days between (c) and (g3);
 - (g6) Nature of the unauthorised transaction as determined by HBAU's investigation, eg Digital Online/Mobile, smishing, or token reactivation;
 - (g7) Were there "exceptional circumstances" for the purposes of clause 38.5 of the 2016 Code? (Y/N);
 - (g8) Brief description of the "exceptional circumstances" referred to in (g7) (if applicable);
 - (g9) Document ID of document which records any determination by HBAU that "exceptional circumstances" referred to in (g7) was applicable;
 - (h1) Date HBAU notified the Relevant Customer of the process to reinstate full access and/or use of relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) (if applicable) (DD/MM/YYYY);
 - (h2) Date upon which the Relevant Customer's full access and/or use of the relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) was reinstated (if applicable) (DD/MM/YYYY);
 - (h3) Number of days between (d1) and (h1) (if applicable);
 - (h4) Number of days between (d1) and (h2) (if applicable);
 - (i) Relevant Customer's total loss (net of any recovery outcome) not including any goodwill payment; and
 - (j) Any goodwill payment amount made to the Relevant Customer.
2. Provide an explanation as to the policy and procedure by which HBAU, during the Relevant Period, reported on and tracked the compliance (or non-compliance) with the processes

(including applicable timeframes) specified in clauses 38.4, 38.5 and 38.9 of the 2016 Code, in respect of HBAU's investigation into reports of unauthorised transactions (including the relevant communications to customers referred to in those clauses of the 2016 Code). Identify and list the relevant documents that record the policy and procedure referred to in your answer.

3. Identify and provide a list (including the effective dates) of any policies, procedures, standards, guidelines, training documents or service level agreements that were in force during any part of the Relevant Period with respect to the investigation, management, and reporting of unauthorised transactions reported or notified to HBAU for the purpose of clauses 38.4 to 38.10 of the 2016 Code, including the tracking and reporting internally of relevant timeframes under the 2016 Code.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of any matter or thing from the document; and the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

1 November 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED] General Counsel

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (Direction) under s912C(1) of the *Corporations Act 2001* (Cth) (Act).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm on 15 November 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on

[REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426368

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (Cth)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (the Act) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 15 November 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 1 November 2024

Signed:

[REDACTED]

[REDACTED]

A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 1 November 2024 bearing identifier NTC2426368, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Definitions

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

HBAU's 29 August 2024 response, means HBAU's response to the July 2024 section 912C Notice dated 29 August 2024, with document identifier BCB.1003.0004.0005.

HBAU's Responses to the July 2024 section 912C Notice means HBAU's response to the July 2024 section 912C Notice with document identifiers BCB.1003.0002.0005, BCB.1003.0003.0003, BCB.1003.0004.0005, BCB.1003.0004.0002, BCB.1003.0004.0032, and BCB.1003.0004.0025.

July 2024 section 912C Notice means the notice issued to HBAU dated 11 July 2024 with the barcode NTC2424177.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

- 1) For each of the Bronze controls referred to in the tables at paragraphs 19, 22, 23, 26, and 29 of HBAU's 29 August 2024 response:
 - a) please identify any controls which had not been implemented by HBAU by 1 January 2023;
 - b) for each control you have identified in response to the question 1(a) above, identify the date the control was implemented by HBAU; and
 - c) if not already identified in the description of the control, please state the scope of the control as implemented by HBAU, including by identifying, as applicable:
 - i. which digital channel the control was implemented on;
 - ii. the relevant payment rails it applied to; and/or
 - iii. the applicability or scope of the control across the customer journey (including for example, account applications, logins and payments).
- 2) For each of the Silver, Gold and other local controls referred to in the tables at paragraph 19, 22, 23, 26, 29, and 31 of HBAU's 29 August 2024 response:
 - a) please state the date or dates the control was first implemented by HBAU; and

- b) if not already identified in the description of the control, please state the scope of the control as implemented by HBAU on the date or dates referred to above, including by identifying, as applicable, as at the relevant date:
 - i. which digital channel the control was implemented on;
 - ii. the relevant payment rails it applied to;
 - iii. the applicability or scope of the control across the customer journey (including for example, account applications, logins and payments); and/or
 - iv. for Biocatch, by identifying relevant module installed.
- 3) In respect of the proposed controls referred to in the tables at paragraphs 20, 24, 27, 30 of HBAU's 29 August 2024 response:
 - a) please identify any controls which have been implemented by HBAU as at the date of the response to this notice;
 - b) for each control you have identified in response to question 3(a) above, state the date the control was implemented by HBAU; and
 - c) if not already identified in the description of the control, please state the scope of the control as implemented by HBAU on the date or dates referred to above, including by identifying, as applicable, as at the relevant date:
 - i. which digital channel the control was implemented on;
 - ii. the relevant payment rails it applied to; and/or
 - iii. the applicability or scope of the control across the customer journey (including for example, account applications, logins and payments).
- 4) Please identify any other controls which are not referred to in HBAU's Responses to the July 2024 section 912C Notice:
 - a) which HBAU had implemented by 1 January 2023; or
 - b) which HBAU has implemented by the date of the notice; and
 - c) for each control you have identified in response to the question 4(b) above, state the date the control was implemented by HBAU;
 - d) for each control you have identified in response to question 4(a) or 4(b) above, please state the scope of the control as implemented by HBAU, including by identifying as applicable as at the relevant date:
 - i. which digital channel the control was implemented on;
 - ii. the relevant payment rails it applied to; and/or

- iii. the applicability or scope of the control across the customer journey (including for example, account applications, logins and payments).

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
 - (b) omits or authorises the omission of a matter or thing from the document; and
- the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of any matter or thing from the document; and the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

8 November 2024

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: Mr [REDACTED] General Counsel

Dear Sir,

Notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$792,000 for a Company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Books in the company's possession, custody or control

The notice requires the Company to produce the books in the Company's possession, including books in its custody or control. This includes books that the Company physically possesses, whether or not it has a legal right to possess them. The Company must also exercise any right or power it may have to recover a book or document that is in the possession of a third party, including books held overseas.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426460

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) from 1 January 2020 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HBAU customers, you are notified that, under s33 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: 4:00 pm (AEDT);
on: 22 November 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of the body corporate, HSBC Bank Australia Limited (**HBAU**):

All books described in the schedule attached to this notice.

[REDACTED]
[REDACTED]

8 November 2024

Date

A delegate of the
Australian Securities and Investments Commission

SCHEDULE

This is the schedule to the notice dated 8 November 2024, bearing identifier NTC2426460, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**), pursuant to section 33 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Definitions

Data Relevant Period means the period 1 January 2020 to 31 August 2024.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

HSBC Group means HSBC Holdings plc and its subsidiaries.

NPP Phase 2 means HBAU's implementation or proposed implementation of real-time send functionality of payments via BSB/ Account Number using the New Payments Platform.

NPP Phase 3 means HBAU's implementation or proposed implementation of real-time send/receive payments via aliases or PayID using the New Payments Platform.

Relevant Period means the period 1 January 2020 to 8 November 2024.

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU an unauthorised transaction.

HBAU is required to produce:

- 1) To the extent not previously provided to ASIC, documents recording the fraud or scam risks associated with NPP Phase 2 or NPP Phase 3 including but not limited to consideration of those matters in meeting minutes, agendas and discussion papers.
- 2) Any communications between HBAU and the following customers in relation to:
 - (a) a report of an unauthorised transaction; or
 - (b) any block or restriction placed on the customer's account or phone, Internet or mobile banking following a report of an unauthorised transaction; or
 - (c) any complaint made by the customer arising from (a) or (b) above.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- 3) For meetings of the HBAU Board Risk Committee held during the Relevant Period, copies or any meeting papers and meeting minutes that refer to the time taken or process for reinstating access to an account or payment device (including access to phone, online or mobile banking services), following any block or restriction placed by HBAU after any scams and/or fraud involving customers of HBAU's Wealth and Personal Banking division.
- 4) Provide:
 - (a) a copy of documents recording the plan for communications to customers regarding the introduction of NPP Phase 2 including the fraud or scam risks associated with it; and
 - (b) a copy of the final communications with customers on the same issue (including via the mobile app, the web, email or text). Where, for example, the same communication was sent to more than one customer, please only provide the email to one customer.

END OF SCHEDULE

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$792,000
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1.98 million
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$792,000



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

8 November 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED] General Counsel

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001 (Cth)* (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (ASIC) a written statement containing certain information by **4:00pm (AEDT) on 22 November 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on

[REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426457

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (Cth)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 22 November 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 8 November 2024

Signed:

[REDACTED]

[REDACTED]

A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 8 November 2024 bearing identifier NTC2426457, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the Corporations Act 2001 (Cth).

Definitions

Data Relevant Period means the period 1 January 2020 to 31 August 2024.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

HSBC Group means HSBC Holdings plc and its subsidiaries.

NPP Phase 2 means HBAU's implementation or proposed implementation of real-time send functionality of payments via BSB/ Account Number using the New Payments Platform.

NPP Phase 3 means HBAU's implementation or proposed implementation of real-time send/receive payments via aliases or PayID using the New Payments Platform.

Relevant Period means the period 1 January 2020 to 8 November 2024.

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU an unauthorised transaction.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

- 1) Please identify:
 - (a) during the Relevant Period which payment rails were available for customers of HBAU's retail banking business to send payments via each channel (mobile, desktop); and
 - (b) the dates each of the payment rails identified in answer to question 1(a) above became available to customers of HBAU's retail banking business to send payments.
- 2) For each payment rail identified in answer to question 1 above for the Relevant Period, please provide:
 - (a) a description of the payment rail including:
 - i. whether the payment rail allowed for real-time payments on each relevant channel;
 - ii. the applicable maximum daily transaction limit(s) for the payment rail on each relevant channel;
 - iii. whether there were configurable daily limits for individual customers on each relevant channel;
 - iv. whether there was an ability to hold first time third party payments on each relevant channel for a period of time, and if so what period of time;

- (b) the relevant dates which applied for each of the matters referred to in (a)(i) to (iv) above (where applicable).
- 3) Provide the following information where a report has been received by HBAU of an unauthorised transaction on an account held by a Relevant Customer during the Data Relevant Period, by completing the attached Excel spreadsheet titled 'NTC2426457 – Attachment A':
- (a1) Customer ID;
 - (a2) Customer Name;
 - (b) Date the unauthorised transaction occurred;
 - (c) Date HBAU first received a report of the unauthorised transaction;
 - (d1) Earliest date one or more MTAs of the Relevant Customer were restricted or blocked (including Internet/mobile banking) as a result of HBAU becoming aware of the unauthorised transaction (if applicable);
 - (d2) Nature of relevant restrictions or blocks applied to Relevant Customer's account after HBAU became aware of the unauthorised transaction (if applicable);
 - (e1) Date HBAU first contacted the Relevant Customer after it commenced an investigation into the report in relation to the possibility of an unauthorised transaction;
 - (e2) Number of days between (c) and (e1) (if applicable);
 - (f1) Did HBAU advise the Relevant Customer in writing of the need for more time to complete investigation into the reported unauthorised transaction? (Y/N);
 - (f2) Date HBAU advised the Relevant Customer in writing that it needed more time to complete its investigation in relation to the reported unauthorised transaction (if applicable) (leave blank if N/A) (DD/MM/YYYY);
 - (f3) Document ID of HBAU's advice in writing to Relevant Customer that more time needed to complete its investigation referred to in (f2);
 - (f4) Number of days between (c) and (f2) (if applicable);
 - (g1) Date HBAU completed its investigation of the reported unauthorised transaction (DD/MM/YYYY);
 - (g2) Document ID of HBAU's investigation report referred to in (g1);
 - (g3) Date HBAU advised the Relevant Customer in writing the outcome of the report of the unauthorised transaction and the reasons for the outcome (DD/MM/YYYY);

- (g4) Number of days between (c) and (g1);
- (g5) Number of days between (c) and (g3);
- (g6) Nature of the unauthorised transaction as determined by HBAU's investigation, eg Digital Online/Mobile, smishing, or token reactivation;
- (g7) Were there "exceptional circumstances" for the purposes of clause 38.5 of the 2016 Code or clause 18.2 of the 2022 Code? (Y/N);
- (g8) Brief description of the "exceptional circumstances" referred to in (g7) (if applicable);
- (g9) Document ID of document which records any determination by HBAU that "exceptional circumstances" referred to in (g7) was applicable;
- (h1) Date HBAU notified the Relevant Customer of the process to reinstate full access and/or use of relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) (if applicable) (DD/MM/YYYY);
- (h2) Date upon which the Relevant Customer's full access and/or use of the relevant MTAs (that had been blocked or restricted including any restrictions on Internet/mobile banking) was reinstated (if applicable) (DD/MM/YYYY);
- (h3) Number of days between (d1) and (h1) (if applicable);
- (h4) Number of days between (d1) and (h2) (if applicable);
- (i) Relevant Customer's total loss (net of any recovery outcome) not including any goodwill payment; and
- (j) Any goodwill payment amount made to the Relevant Customer.
- (k1) relevant payment rail and channel for payment out of the customer's account;
- (k2) relevant payment rail and channel used to make payment from HBAU to other financial institution (if in addition to above)]
- (k3) type of account(s) from which the unauthorised transaction(s) occurred (e.g. transaction account, savings, home loan, or personal loan)

4) Provide a description of the following terms:

- (a) "GSP", including the date it was discontinued by HBAU and the extent to which, and date from which, support was reduced for HBAU's use of this platform;
- (b) "DSP" or Digital Security Platform, including the date it was implemented by HBAU and the dates it was first rolled out by HSBC in other countries; and

(c) "Banking 2.0", including the date it was implemented by HBAU and the dates it was first rolled out by the HSBC Group in the United States, Canada, AMH, UK, Mexico, Hang Seng Bank Hong Kong, Singapore, Greece and Malta).

5) Please provide a description of the region or entity known as AMH.

6) Provide the date of documents:

(a) HBA.0001.0001.1021;

(b) HBA.0001.0001.1655;

(c) HBA.0001.0001.1654;

(d) HBA.0001.0001.1824;

(e) HBA.0001.0001.1833;

(f) HBA.0001.0001.1854;

(g) HBA.0001.0001.1861;

(h) HBA.0001.0001.2026;

(i) BCB.1000.0001.0494;

(j) HBA.0001.0001.0248;

(k) HBA.0001.0001.0090;

(l) HBA.0001.0001.2071.

7) Provide all contacts details held by HBAU for the following customers:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 8) Where HBAU provides a copy of communications with customers in accordance with category 3 of the s 33 notice dated 8 November 2024, please note where it is an example communication sent to many customers.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

(a) makes or authorises the making of a statement in the document; or

(b) omits or authorises the omission of any matter or thing from the document; and the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

14 November 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED]

Dear Sir,

Notice issued under s33 of the Australian Securities and Investments Commission Act 2001 (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001 (Cth)* (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$792,000 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Books in the company's possession, custody or control

The notice requires the company to produce the books in the Company's possession, including books in its custody or control. This includes books that the Company physically possesses, whether or not it has a legal right to possess them. The Company must also exercise any right or power it may have to recover a book or document that is in the possession of a third party, including books held overseas.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal

professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the company has questions about this notice, please contact [REDACTED] on [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426643

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) from 1 January 2020 and ongoing, by failing to ensure that their financial services were provided efficiently, honestly and fairly in connection with scams involving HBAU customers, you are notified that, under section 33 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: 4:00pm (AEDT);
on: 21 November 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of a body corporate, HBAU:

All books described in the schedule attached to this notice.

[REDACTED]
[REDACTED]
A delegate of the Australian
Securities and Investments Commission

14 November 2024

Date

SCHEDULE

This is the schedule to the notice dated 14 November 2024, bearing identifier NTC2426643, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**), pursuant to section 33 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Definitions

Data Relevant Period means the period 1 January 2020 to 31 August 2024.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU an unauthorised transaction.

Relevant Period means the period 1 January 2020 to 14 November 2024.

Unauthorised Transaction Spreadsheet means the spreadsheet produced by HBAU on 1 November 2024 in response to ASIC Notice NTC2425818 as amended by HBAU and subsequently reproduced to ASIC.

HBAU is required to produce:

1. To the extent not previously provided to ASIC, the documents referred to in item 1 of the s 912C notice NTC2426642 dated 14 November 2024.
2. To the extent not previously provided to ASIC, all communications between HBAU and the Relevant Customer referred to in the Unauthorised Transaction Spreadsheet in relation to the report of an unauthorised transaction.
3. To the extent not previously provided to ASIC, the documents referred to in item 2 of the s 912C notice NTC2426642 dated 14 November 2024.
4. To the extent not previously provided to ASIC, the documents referred to in item 3 of the s 912C notice NTC2426642 dated 14 November 2024.
5. To the extent not previously provided to ASIC, the documents referred to in item 4 of the s 912C notice NTC2426642 dated 14 November 2024.
6. To the extent not previously provided to ASIC, the documents referred to in item 5 of the s 912C notice NTC2426642 dated 14 November 2024.
7. All versions of the Branch - Handling Fraud and Scams - KM1141155 procedure that were in force during any part of the Relevant Period.
8. All versions of the FC-UAR escalations PIM that were in force during any part of the Relevant Period.
9. In relation to the reportable situation report lodged by HBAU with ASIC on 11 October 2023 (reference number 38423):
 - a. all documents recording the outcome of the investigation by HBAU; and
 - b. all documents recording consideration of whether the conduct referred to report amounted to a significant breach of a core obligation.

END OF SCHEDULE

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$792,000
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1.98 million
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$792,000



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

14 November 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED]

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001 (Cth)* (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information **by 4:00pm (AEDT) on 21 November 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2426642

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTION 912C(1) OF THE CORPORATIONS ACT 2001 (CTH)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 21 November 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 14 November 2024

Signed:

[REDACTED]

[REDACTED]
A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 14 November 2024 bearing identifier NTC2426642, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Definitions

Data Relevant Period means the period 1 January 2020 to 31 August 2024.

HBAU means HSBC Bank Australia Limited (ACN 006 434 162).

Relevant Customer means a customer of HBAU's retail banking business that suffered or reported to HBAU an unauthorised transaction.

Relevant Period means the period 1 January 2020 to 14 November 2024.

Unauthorised Transaction Spreadsheet means the spreadsheet produced by HBAU on 1 November 2024 in response to ASIC Notice NTC2425818 as amended by HBAU and subsequently reproduced to ASIC.

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. Provide the following information where a report has been received by HBAU of an unauthorised transaction on an account held by a Relevant Customer during the Data Relevant Period, by completing the attached Excel spreadsheet titled '**NTC2426642 – Attachment A**' as an extension to the Unauthorised Transaction Spreadsheet:
 - a. (I) document ID of HBAU's advice to the Relevant Customer in writing of the outcome of the report of the unauthorised transaction and the reasons for the outcome.
2. Provide an explanation of the "old process" referred to slide 4 of the "Getting customers back to banking" presentation dated April 2024 [HBA.0001.0001.2064] during the Relevant Period. As part of your explanation, provide a list of documents that record the "old process" during the Relevant Period.
3. Provide a list of policies, procedures, manuals or guidelines used by the FIM team or FC Major Investigations team during the Relevant Period for the investigation of Financial Crime-Unusual Activity Report (FC-UARs) of "Unauthorised Payments" as defined in the "C.6.1. Fraud Classification & Reporting Standards" dated November 2020 [BCB.1000.0001.0252].
4. Provide a list of any documents recording reporting compliance by the FIM team or FC Major Investigations team against the "ePayments Internal SLAs" as approved at the ePayments Code Project Steering Committee Meeting dated 9 November 2023 recorded in HBA.0001.0001.1735 (on page 4 (item 35) and pages 12-15) or against any amended SLA that replaced the ePayments Internal SLA during the Relevant Period.
5. Provide an explanation of HBAU's procedure for lodging reports with ASIC of reportable situations. As part of your explanation provide a list of the documents which record HBAU's policies or procedures for lodging reports with ASIC of reportable situations.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of a matter or thing from the document; and

the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
 - (b) omits or authorises the omission of any matter or thing from the document; and
- the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

4 December 2024

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: Mr [REDACTED] General Counsel

Dear Sir,

Notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$792,000 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at:

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Books in the company's possession, custody or control

The notice requires the Company to produce the books in the Company's possession, including books in its custody or control. This includes books that the Company physically possesses, whether or not it has a legal right to possess them. The Company must also exercise any right or power it may have to recover a book or document that is in the possession of a third party, including books held overseas.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to

substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*; a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2427101

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) (**Corporations Act**) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) by failing to ensure that their financial services were provided efficiently, honestly and fairly, and section 912DAA of the *Corporations Act* by failing to lodge reportable situations to ASIC, during the period from 1 January 2020 and ongoing, in connection with scams involving HBAU customers, you are notified that, under section 33 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: 4:00 pm (AEDT);
on: 10 December 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of the body corporate, HSBC Bank Australia Limited (**HBAU**):

1. A copy of all documents relating to the ACIR 2715 file/investigation;
2. A copy of the final version of the Management Action Closure Pack referred to in item 3 of the s 912C notice dated 4 December 2024, barcoded NTC2427100, as approved for closure; and
3. A copy of the documents recording the endorsement and or approval referred to in items 3(a) and 3(b) of the s 912C notice dated 4 December 2024, barcoded NTC2427100.

[REDACTED]
[REDACTED]

4 December 2024

Date

A delegate of the
Australian Securities and Investments Commission

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$792,000
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1.98 million
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$792,000



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

4 December 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED]

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it requires HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information by **4:00pm (AEDT) on 10 December 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2427100

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (CTH)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 10 December 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 4 December 2024

Signed: [REDACTED]

[REDACTED]
A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 4 December 2024 bearing identifier NTC2427100, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the Corporations Act 2001 (Cth).

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. In respect of the Assessment of Materiality for ACIR 2715 [HBA.0001.0001.2028]:
 - (a) provide the name and title of the author of this document;
 - (b) confirm the date of this document; and
 - (c) provide a distribution list of those who received this document, which includes their name, title, team and date of receipt.
2. A list of recipients (including names, titles) of the documents in the file referred to at item 1 of the s 33 notice dated 4 December 2024, barcoded NTC2427101.
3. In respect of the Management Action Closure Pack dated about October 2024 [HBA.0001.0001.1812] (including any amended version of this document) attached to the email dated 3 October 2024 from Harvey Singh to Maria Lu [HBA.0001.0001.1811]:
 - a) confirm whether this report was endorsed for closure as referred to in the email dated 3 October 2024, and if so, on what date, and by whom (include details of their name, title and team); and
 - b) confirm whether this report was approved for closure as referred to in the email dated 3 October 2024, and if so, on what date, and by whom (include details of their name, title and team).

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
 - (b) omits or authorises the omission of a matter or thing from the document; and
- the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or

- (b) omits or authorises the omission of any matter or thing from the document; and

the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**
Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

4 December 2024

HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: Mr [REDACTED] General Counsel

Dear Sir,

Notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth)

I enclose a notice issued under s33 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), requiring HSBC Bank Australia Limited (ACN 006 434 162) (**the Company**) to produce certain books to ASIC. These books relate to the investigation set out in the notice. The word 'books', and other expressions used in this notice, are defined in Appendix A.

This letter, the notice and the appendices set out information about the Company's rights and obligations.

The Company is not excused from providing books on the grounds that the books may incriminate the Company or expose it to a penalty: s68(1) of the ASIC Act. The Company is entitled to consult with its legal advisers regarding its obligations under the notice.

The notice should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

The penalty for failing, without reasonable excuse, to comply with a notice is a fine of up to \$792,000 for a company: see s63(1) and 93E of the ASIC Act. See Appendix B for some of the offence and penalty provisions for non-compliance with notices.

Producing books to ASIC

Please produce the books in accordance with ASIC Information Sheet 242: Document Production Guidelines (**INFO 242**) and ASIC's Document Production Guidelines (**Guidelines**). INFO 242 and the Guidelines are available on our website at:

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-document-production-guidelines/>.

INFO 242 and the Guidelines provides guidance on how to produce books in both electronic and hard copy form to ASIC. The following is a summary of the key points of INFO 242 and the Guidelines.

Books in electronic form

If books the Company must produce under the notice are stored in electronic form, please produce them:

- in the electronic form in which they are stored, including the metadata associated with the books. This is ASIC's preferred form of production; or
- using a litigation support system. Section D of the Guidelines is a protocol that sets out how ASIC prefers documents to be produced when using a litigation support system.

The Company is required to produce books that are stored in electronic form in a form capable of being understood by ASIC: s25A of the *Acts Interpretation Act 1901* (Cth). This means that where a book to be produced is encrypted, the Company is required to either decrypt the book or provide the password to ASIC.

Books in hard copy form

If books the Company must produce under the notice are stored in hard copy form:

- the notice may require the Company to produce the original hard copy books; or
- if original hard copies are not required by the notice, the Company may produce copies of the original books.

Where the Company is to produce copies of original hard copy books, please produce electronic copies of the hard copy books to ASIC either:

- scanned individually, at a minimum 300 dpi, in colour where necessary to understand the content, and sent to ASIC as text searchable, multi-page portable document (PDF) files; or
- through a litigation support system.

Books in the company's possession, custody or control

The notice requires the Company to produce the books in the Company's possession, including books in its custody or control. This includes books that the Company physically possesses, whether or not it has a legal right to possess them. The Company must also exercise any right or power it may have to recover a book or document that is in the possession of a third party, including books held overseas.

Legal professional privilege

ASIC accepts that a valid claim of legal professional privilege is a reasonable excuse for not providing books under the notice. The Company may make a claim of legal professional privilege if it holds that privilege, or if it makes the claim of privilege on behalf of a person who holds that privilege.

ASIC will not accept a claim of legal professional privilege if the claim is not substantiated. Further information about how to make a claim of legal professional privilege, how to substantiate that claim and ASIC's approach to such claims is set out in ASIC Information Sheet 165: *Claims of legal professional privilege*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Also, ASIC may accept, on a confidential basis, privileged information (or information that is claimed to be privileged) voluntarily. The terms on which ASIC may elect to accept such information are set out in ASIC's standard agreement, the *Voluntary confidential LPP disclosure agreement*: a full copy of which is available at <https://asic.gov.au/media/1348508/Voluntary-Confidential-Disclosure-Agreement--Legal-Professional-Privilege.pdf>.

ASIC's powers under s37(9) of the ASIC Act

Please retain all books relating to the compilation of books produced in response to this notice.

Where books are produced to ASIC in response to a notice, ASIC may require the person who produced the books or a person who was a party to the compilation of the books to explain any matter about the compilation of the books or to which the books relate: see s37(9) of the ASIC Act.

No books to produce

If the Company does not have any books to produce in answer to the notice, please advise me in writing before the due date of the notice.

Information about ASIC's powers and privacy policy

Further information about ASIC's compulsory information gathering powers is set out in ASIC Information Sheet 145: *ASIC's compulsory information gathering powers*, which is available on our website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

The books required to be produced by the Company may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If the Company has questions about this notice, please contact [REDACTED] via email at [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2427122

FORM 2

Regulation 5

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION REGULATIONS 2001

Australian Securities and Investments Commission

NOTICE REQUIRING THE PRODUCTION OF BOOKS

To: HSBC Bank Australia Limited
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

In relation to an investigation under section 13 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) into suspected contraventions of section 912A of the *Corporations Act 2001* (Cth) (**Corporations Act**) by HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) by failing to ensure that their financial services were provided efficiently, honestly and fairly, and section 912DAA of the *Corporations Act* by failing to lodge reportable situations to ASIC, during the period from 1 January 2020 and ongoing, in connection with scams involving HBAU customers, you are notified that, under section 33 of the ASIC Act, you are required to produce:

to: [REDACTED]
at: 4:00 pm (AEDT);
on: 13 December 2024; and
at: Level 5, 100 Market Street, Sydney NSW 2000, via email to [REDACTED] or via secure file transfer link;

the following books relating to the affairs of the body corporate, HBAU:

All books described in the schedule attached to this notice.

[REDACTED]
[REDACTED]

4 December 2024

Date

A delegate of the
Australian Securities and Investments Commission

SCHEDULE

This is the schedule to the notice dated 4 December 2024, bearing identifier NTC2427122, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 33 of the *Australian Securities and Investments Commission Act 2001* (Cth).

HBAU is required to produce:

1. A copy of the document referred to in item 2(c) of the s 912C notice dated 4 December 2024, barcoded NTC2427119.
2. In respect of the review carried out by Martin Kern (Compliance Advisory) in early February 2023, referred to in HBA.0001.0001.2028 at page 4 and 12:
 - a. a copy of the document recording the outcomes of the review; and
 - b. the distribution list of who received the document recording the review (including name, title, team and date of receipt).
3. A copy of the document recording the advice provided by compliance on about 2 March 2023 referred to in HBA.0001.0001.2028 at .0012.
4. A copy of the gap analysis provided to David Tabrett on 17 March 2023, referred to in HBA.0001.0001.2028 at page 5 and 12, including any email attaching the gap analysis.
5. A copy of the May 2023 Program Runway meeting minutes.
6. A copy of any meeting minutes or other meeting materials in respect of the "ExCo meeting" held on 26 May 2023 referred to in HBA.0001.0001.2028 at .0013.

END OF SCHEDULE

APPENDIX A: Definitions

This Appendix explains the meaning of particular statutory terms that you should understand in order to determine what the notice requires you to produce. Other terms may be defined elsewhere in the notice.

Term	Definition
books	<p>Has the meaning given by s5(1) of the ASIC Act, and so includes:</p> <ul style="list-style-type: none">(a) registers;(b) financial reports or financial records, however compiled, recorded or stored;(c) documents;(d) banker's books; and(e) any other record of information. <p>Where a book that is responsive to this notice is:</p> <ul style="list-style-type: none">(a) an email, the email includes any attachments to that email;(b) an attachment to an email, the attachment includes the email to which the attachment is attached and any other attachments to that email;(c) in electronic form, it includes the metadata to that book.
document	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so means any record of information and includes:</p> <ul style="list-style-type: none">(a) anything on which there is writing; and(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and(d) a map, plan, drawing or photograph.
record	<p>Has the meaning given by s2B of the <i>Acts Interpretation Act 1901</i> (Cth), and so includes information stored or recorded by means of a computer.</p>

APPENDIX B: Offences and penalties

You should be aware of the following offences under the ASIC Act, each of which carry the penalties noted when contravened by a company.

Offence	Definition	Source	Penalty
Failure to comply	You must not intentionally or recklessly, without reasonable excuse, fail to comply with a requirement made under s19, 21(3), 30, 30A, 30B, 31, 32A, 33, 34 or 37(9) of the ASIC Act	Section 63, 93D and 93E	\$792,000
False or misleading statements	You must not, when complying with a requirement made under Pt 3 of the ASIC Act (including s30, 31, 32A or 33 notices), give information or make a statement that is false or misleading in a material particular	Section 64(1), 93D and 93E	\$1.98 million
Obstruct or hinder	You must not, without a reasonable excuse, obstruct or hinder a person exercising a power under Pt 3 of the ASIC Act (including s30, 31 or 33 notices)	Section 65, 93D and 93E	\$792,000



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827
Melbourne VIC 3001

Tel: +61 1300 935 075
Fax: +61 1300 720 000

www.asic.gov.au

4 December 2024

HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

BY EMAIL ONLY: [REDACTED]

Our Reference: CAS-147221-Q0Y6D2

Attention: [REDACTED]

Dear Sir,

Notice of Direction under s912C(1) of the Corporations Act 2001 (Cth)

I enclose a Notice of Direction (**Direction**) under s912C(1) of the *Corporations Act 2001* (Cth) (**Act**).

You should read the Direction carefully. You will see that it HSBC Bank Australia Limited (ACN 006 434 162) (**Licensee**) to give to the Australian Securities and Investments Commission (**ASIC**) a written statement containing certain information by **4:00pm (AEDT) on 13 December 2024**. Details are set out in the Direction.

The Licensee may comply with the Direction by emailing the written statement to [REDACTED]. Please address the written statement to the attention of [REDACTED].

The Licensee is entitled to consult with its legal adviser in relation to its obligations under the Direction.

I draw your attention to the note enclosed with the Direction which contains information relevant to the Direction, including some definitions of expressions which may be used and some of the offence and penalty provisions relating to non-compliance with the Direction. It also deals with the application of legal professional privilege to the Direction.

The Direction should not be construed as an indication by ASIC that a contravention of the law has occurred, nor should it be considered a reflection upon any person or entity.

Further information about ASIC's compulsory information gathering powers is set out in Information Sheet 145 which is at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/>.

Privacy

The information required to be produced may include personal information. Please refer to ASIC's Privacy Policy at www.asic.gov.au/privacy for information about how we handle personal information, rights to seek access to and correct personal information, and how to complain about breaches of privacy.

If you have any questions about the Direction, please contact me on [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Investigator, Investigation and Enforcement Action
Enforcement and Compliance
Australian Securities and Investments Commission



ASIC
Australian Securities &
Investments Commission

NTC2427119

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTIONS 912C(1) OF THE CORPORATIONS ACT 2001 (Cth)

NOTICE OF DIRECTION TO GIVE A WRITTEN STATEMENT

To: HSBC BANK AUSTRALIA LIMITED
ACN 006 434 162
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000

Australian financial services licence number: 232 595

You are notified under s912C(1) of the *Corporations Act 2001* (Cth) (**the Act**) that you are directed to give:

to: Australian Securities and Investments Commission
at: via email to [REDACTED]
by: 4:00pm (AEDT); and
on: 13 December 2024

a written statement containing responses to the questions, set out in the schedule to the notice of direction, about the financial services business carried on by you.

Date: 4 December 2024

Signed: [REDACTED]

[REDACTED]
A delegate of the Australian Securities and Investments Commission.

SCHEDULE

This is the schedule to the notice of direction dated 4 December 2024 bearing identifier NTC2427119, issued to HSBC Bank Australia Limited (ACN 006 434 162) (**HBAU**) pursuant to section 912C of the *Corporations Act 2001* (Cth).

Information to be provided

The Licensee is required to provide a written statement addressing the following questions in relation to the financial services business carried on by HBAU:

1. In respect of the review carried out by Martin Kern (Compliance Advisory) in early February 2023, referred to in HBA.0001.0001.2028 at page 4 and 12, provide a distribution list of those who received the document recording the outcome of the review, including their name, title, team and date of receipt.
2. In respect of HBAU's breach report to ASIC dated 31 August 2023, with reference number 371421:
 - a. was the investigation referred to in that breach report completed;
 - b. if so, when; and
 - c. provide the document ID of the document recording completion of the investigation.

END OF SCHEDULE

INFORMATION ABOUT THE DIRECTION

Relevant Statutory Provisions

[All section references are to the *Corporations Act 2001* unless otherwise indicated]

Subsection 912C(1) provides that the Australian Securities and Investments Commission (ASIC) may, by giving written notice to a financial services licensee, direct the licensee to give to

ASIC a written statement containing the specified information about:

- (a) the financial services provided by the licensee or its representatives; or
- (b) the financial services business carried on by the licensee.

Subsection 912C(2) provides that ASIC may also, by giving written notice to the licensee, direct the licensee to obtain an audit report, prepared by a suitably qualified person specified in the notice, on a statement, or each statement in a class of statements, under subsection (1) before the statement is given to ASIC.

Under s912C(3), the licensee must comply with a direction given under s912C:

- (a) within the time specified in the direction if that is a reasonable time; or
- (b) in any other case, within a reasonable time.

ASIC may extend the time within which the licensee must comply with the direction by giving written notice to the licensee: s912C(3).

Under s912C(1A)(e), ASIC may require a statement containing information to be given in a specified manner (including in electronic form).

ASIC may suspend or cancel a licence under s915C(1)(a) of the Act if the licensee has not complied with its obligations under s912A. Among the list of obligations under s912A, is the obligation to comply with the financial services laws: s912A(1)(c).

Non-compliance with a direction that ASIC gives under s912C(1), within the time set out in s912C(3), may constitute a failure to comply with a financial services law.

ASIC may only suspend or cancel a licence if it first gives the licensee an opportunity:

- (a) to appear or be represented at a hearing before ASIC. The hearing is conducted in private: s915C(4); and
- (b) to make submissions to ASIC on the matter: s915C(4).

Legal Professional Privilege

For the purposes of your obligations arising from the Direction, legal professional privilege is a reasonable excuse for not providing information pursuant to the Direction. Accordingly, you are not obliged to provide under the Direction information that is covered by a valid claim of legal professional privilege.

A person who claims legal professional privilege must establish that the privilege exists. If you claim that any information that you are required to provide is subject to legal professional privilege, you must provide ASIC with sufficient information to allow its officers to make an informed decision about whether the claim for privilege can be supported.

For that purpose, if the information over which you claim legal professional privilege was or is currently, comprised in the whole or part of a document, you should prepare a list, in writing, which specifies for each document or part thereof you claim is privileged:

- a) the names of all authors and recipients of the document together with their positions and employer, if any;
- b) the date of the document;

- c) the type of document (e.g. email or letter);
- d) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- e) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made;
- f) whether the form of the document is electronic or hard copy;
- g) the address of the premises where the document is kept; and
- h) whether privilege is claimed over the whole or part of the document. Please note, where only part of the document is subject to a claim of privilege, an appropriately masked version of the document must be provided to ASIC.

If the information over which you claim legal professional privilege was the subject of an oral communication, you should prepare a list, in writing, which specifies for each oral communication you claim is privileged:

- a) the names of all parties who communicated the information or to whom the information has been communicated, together with their positions and employer, if any;
- b) the date of the communication;
- c) the category of legal professional privilege claimed (advice privilege or litigation privilege) and the basis on which the privilege is claimed;
- d) the name of all persons who claim the right to assert the privilege, including any third parties on whose behalf the privilege claim is made; and
- e) whether the information has been recorded in part or in whole in a tangible form (e.g. electronic or hard copy).

In the case of a claim of legal professional privilege on behalf of another party, you should also provide the following information to ASIC:

- a) the identity of the privilege holder;
- b) the last known contact details of the privilege holder; and
- c) an explanation of the circumstances by which the information came to be within your possession or control.

Unless ASIC otherwise agrees, you should provide the list(s) relating to your privilege claims to ASIC on or before the due date of the Direction.

Further information about ASIC's approach to claims of legal professional privilege is set out in Information Sheet 165 *Claims of Legal Professional Privilege* which is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/claims-of-legal-professional-privilege/>.

Definitions

'financial service' has the meaning given by Division 4 of Part 7.1: s9 of the Act. A person provides a financial service if they:

- (a) provide financial product advice (see section 766B); or
- (b) deal in a financial product (see section 766C); or
- (c) make a market for a financial product (see section 766D); or
- (d) operate a registered scheme; or
- (e) provide a custodial or depository service (see section 766E); or
- (ea) provide a crowd-source funding service (see section 766F); or
- (eb) provide a claims handling and settling service (see section 766G); or
- (ec) provide a superannuation trustee service (see section 766H); or
- (f) engage in conduct of a kind prescribed by regulations made for the purpose of this paragraph.

'financial services licensee' means a person who holds an Australian financial services licence: s9 of the Act.

'representative' has the meaning given by s9 of the Act. If a person is a financial services licensee, a representative of the licensee means:

- an authorised representative of the licensee; or
- an employee or director of the licensee; or
- an employee or director of a related body corporate of the licensee; or
- any other person acting on behalf of the licensee.

'financial services law' means:

- (a) a provision of Chapter 7 or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B of the Act; or
- (b) a provision of Chapter 9 of the Corporations Act as it applies in relation to a provision referred to in paragraph (a); or
- (c) a provision of the Passport Rules for this jurisdiction, or
- (d) a provision of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001*; or
- (e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or
- (f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

[s9 and s761A of the Act]

Offences

Failure to comply with s912C(3) is an offence: see Note to s912C(3) and s1311(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
 - (b) omits or authorises the omission of a matter or thing from the document; and
- the person knows that the document is materially false or misleading because of the statement or omission, commits an offence: s1308(1).

A person who, in a document required under or for the purposes of the Corporations Act or lodged with or submitted to ASIC:

- (a) makes or authorises the making of a statement in the document; or
- (b) omits or authorises the omission of any matter or thing from the document; and

the document is materially false or misleading because of the statement or omission, and, the person did not take all reasonable steps to ensure that the document was not materially false or misleading because of the statement or omission, commits an offence: s1308(3).

A person must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under the Corporations Act: s1310.

RESTRICTED

From: [REDACTED]

Sent: Thursday, November 28, 2024 12:22 PM

To: [REDACTED]
[REDACTED]
[REDACTED]

Subject: EXTERNAL: HSBC - follow up questions on notice productions [SEC=OFFICIAL:Sensitive]

This Message Is From an External Sender

This message came from outside your organisation. The content & any attachments need to be treated with care and attention.

Good afternoon [REDACTED],

Hope you are well.

Could you please provide an urgent response to the following questions **by 9am tomorrow**:

Global External Fraud Strategy

1. HBAU has produced its HSBC Group Global WPB External Fraud Strategy from April 2021, May 2022 and June 2024 (HBA.0001.0001.0014, HBA.0001.0001.0026, HBA.0001.0001.0068). These were requested in items 12 to 14 of the s 30 notice NTC2423295 dated 13 May 2024. We understand that there is also a March 2020 version. Whilst the March 2020 version is not subject to the notice NTC2423295, could HBAU please voluntarily produce this document to ASIC? Alternatively, please confirm if you require a notice to be issued to HBAU to produce that document.

Unauthorised transaction investigation reports

2. HBAU produced the attached "Attachment C" to ASIC on Monday, 25 November 2024 in response to Item 1 of the s912C notice NTC2426642 dated 14 November 2024. In column 'g2' of Attachment C, HBAU sets out the document ID of the customer investigation reports. HBAU have provided the Nuix document ID for 771 of the 950 investigation reports. We hold all of these except for HBA.0001.0001.3459. Can you please ensure a copy of document HBA.0001.0001.3459 is included in the production scheduled for Tuesday, 3 December 2024.
3. HBAU has not provided Nuix document IDs for 179 of the 950 investigation reports. Of these, 'N/A' or 'U' has been recorded in g2 for 114 of the reports, which we understand means that HBAU do not hold an investigation report for these customers. Can you please confirm that is correct.
4. The remaining 65 reports do not have NUIX IDs. For ease of reference, those documents have shaded in red in 'g2' of the **attached** spreadsheet.
5. Many of the cells in Column "I" of the attached spreadsheet are blank. In the cover email to the production, HBAU said "*we have completed the document ids where a customer letter is available*". For some customers, a doc ID has not been provided despite confirming in column "g3" the date on which HBAU notified the customer e.g. row 70 [REDACTED]

6. HBAU is to:
- (a) provide an updated version of Attachment C, which replaces the non-Nuix IDs with Nuix IDs;
 - (b) produce to ASIC the missing 65 investigation reports (refer to item 2 and item 4 above) by Tuesday 3 December 2024; and
 - (c) explain why HBAU has not provided a document ID in the circumstances where HBAU has nonetheless provided a date in 'g3'. If HBAU cannot produce a copy of the communication to the customer about the outcome of the report, please explain how HBAU has identified the date in 'g3'.

Missing documents under notice

7. HBAU produced document barcoded **HBA.0001.0001.0427** to ASIC on 22 August 2024 in response to s33 notice NTC2424202. Large parts of the document have been redacted however there does not appear to have a privilege schedule attached. Please advise the reason for the redactions. ASIC believes there is relevant information that has been redacted from the documents, in particular ASIC cannot understand the context of the information contained at page HBA.0001.0001.0427_0015 without, at the very least, seeing some of the proceeding pages.
8. It does not appear that HBAU has produced the actual market assessments as requested under item 2 of the s33 notice NTC2424202 dated 11 July 2024, with reference to item 1 of the s912C notice NTC2424177 dated 11 July 2024. Please produce documents evidencing the market assessment that occurred in about February 2022 and February 2023 to ASIC.

Should you have any questions, please do not hesitate to contact us.

Regards

Investigator, Investigation & Enforcement Action
Enforcement & Compliance

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney NSW 2000

Tel: [REDACTED]



ASIC

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RESTRICTED

From: [REDACTED]
Sent: Monday, December 2, 2024 12:20 PM
To: [REDACTED]
[REDACTED]
[REDACTED]
Subject: EXTERNAL: RE: RE: HSBC Responses to ASIC due 27 November 2024 [SEC=OFFICIAL:Sensitive]

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Good afternoon [REDACTED],

I refer to the notice production to ASIC on 27 November 2024 in response to the s33 notices NTC2426460 dated 8 November 2024 and NTC2426643 dated 14 November 2024.

Could HBAU please advise on the following questions by 3 December 2024:

1. Of the 944 documents produced to ASIC, there are 136 documents that have not been coded to a particular notice category and are missing a notice section field value. Could HBAU please complete the coding for each document produced to ASIC under notice, and please confirm when this is done.
2. There appears to be no documents coded as relevant to item 2 of the s33 notice NTC2426643. Item 2 of the s33 notice NTC2426643 requested *"To the extent not previously provided to ASIC, all communications between HBAU and the Relevant Customer referred to in the Unauthorised Transaction Spreadsheet in relation to the report of an unauthorised transaction"*.

Please advise:

- a. whether any of the non-coded documents referred to at (1) above are in response to item 2 of the s33 notice NTC2426643.
- b. whether this is an error. If it is an error, please rectify and produce any relevant documents to ASIC by 4:00pm on 3 December 2024.
- c. If it is not an error, please confirm there are no documents to be produced in response to item 2 of the s33 notice NTC2426643.

Should you have any questions, please do not hesitate to contact us.

Regards

[REDACTED]
Investigator, Investigation & Enforcement Action
Enforcement & Compliance

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney NSW 2000

Tel: [REDACTED]
[REDACTED]



ASIC

From: [REDACTED]

Sent: Wednesday, 27 November 2024 5:11 PM

To: [REDACTED] <[REDACTED]> [REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: EXTERNAL: RE: HSBC Responses to ASIC due 27 November 2024 [SEC=OFFICIAL]

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hello [REDACTED]

Please see the link to the 2 section 33 notices production below:

[REDACTED]

The above sharefile contains as I mentioned approximately 900 documents. We have experienced some challenges with processing a small number of documents and this is being worked on. Everything will be ready for production at our final production scheduled for 3 December including the customer recordings which are available for the Relevant Customers. Thank you for your patience.

I will share the password for the sharefile separately.

Regards

*I support flexible working and I may send emails at unconventional times.
Please do not feel obliged to reply immediately if this email is received outside of your own working hours.*

[REDACTED]
Associate General Counsel - Head of Regulatory Legal, Australia and New Zealand

Telephone: [REDACTED]

E-mail: [REDACTED]

Website: www.hsbc.com.au

Admitted in New South Wales, Australia

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RESTRICTED

From: [REDACTED]
Sent: Wednesday, November 27, 2024 4:42 PM
To: [REDACTED]
[REDACTED]
[REDACTED]
Subject: EXTERNAL: RE: HSBC Responses to ASIC due 27 November 2024 [SEC=OFFICIAL]

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Good afternoon [REDACTED]

Confirming receipt of your email. We look forward to the remaining notice production.

Regards

[REDACTED]
Investigator, Investigation & Enforcement Action
Enforcement & Compliance

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney NSW 2000

Tel: [REDACTED]
[REDACTED]



ASIC

From: [REDACTED]
Sent: Wednesday, 27 November 2024 3:51 PM
To: [REDACTED]
[REDACTED]
[REDACTED]
Subject: HSBC Responses to ASIC due 27 November 2024

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear [REDACTED]

We are experiencing a delay in completing the NUIX production through our third-party provider. We expect a production of about 900 documents to be available later today, however this will not be ready by 4 pm. Apologies for this.

We are providing you with our other responses and so attach :

- Attachment A which is our response to the questions due today under the 912C notice issued on 8 November.
- Attachment B which sets our detailed response to question 7 in the 912C notice issued on 8 November. The password for this confidential spreadsheet will be shared separately.
- Attachment C which is our response to the questions due today under the 912C notice issued on 14 November.
- Attachment D which forms part of our response to Helen's questions on 14 November.

Questions from 14 November

We also refer to [REDACTED] email from ASIC dated 14 November 2024, and set out below our response to questions 1(b), 2, 3, 4, 8, 9. ASIC's questions are set out in bold below.

(1)(b) Could HBAU please advise when the following documents will be produced to ASIC: HBAU Fraud Operations SAS Monitoring & Review Process Instruction Manual dated 1 June 2023. We expected this document to be produced in response to section 30 notice NTC2423059 dated 24 April 2024.

A copy of this document will be provided in today's production to ASIC.

2. It appears that the following documents have not yet been produced to ASIC: HBA.0001.0001.1516 and HBA.0001.0001.1538. These documents are listed in the spreadsheet dated 21 October 2024 produced in response to item 1 and 2 of the s912C notice barcoded NTC2425621. Please advise when the documents will be produced to ASIC.

Thank you for drawing our attention to the matters raised in relation to HBA.0001.0001.1516 and HBA.0001.0001.1538.

HBA.0001.0001.1516

On 21 October 2024, a spreadsheet titled 'Attachment A – 912C Notice 21 October 2024 Items 1 and 2' was produced to ASIC in response to items 1 and 2 of the s912C Notice dated 30 September 2024. In that spreadsheet, HBA.0001.0001.1516 was incorrectly identified as bearing the document name 'CSEM Review Report'. HBA.0001.0001.1516 is in fact a 'system file' with the file name 'vbaProject.bin' that does not contain any data and therefore cannot be produced. We apologise for the confusion caused.

The document titled 'CSEM Review Report' is the document bearing document ID HBA.0001.0001.1518. A copy of this document was produced in production tranche 008. For good order, attached to this email is an amended version of the spreadsheet that corrects the inadvertent errors identified above. That document is called Attachment D – 912C Notice 21 October 2024 Items 1 and 2 [AMENDED] (002)'. You will note that this spreadsheet does not include HBA.0001.0001.1516 because that system file is not responsive to the notice, and contains amendments to rows 28 to 33 (as a result of the removal of HBA.0001.0001.1516).

HBA.0001.0001.1538

This document appears to have been corrupted and, as a result, cannot be opened. HBAU is trying to identify another copy of this document and will produce it to ASIC if it can be identified.

3. Could HBAU please advise whether it holds final versions of the following documents:

ePayments Code – Unauthorised Transaction Guide: Timeframes & Liability (WBP). ASIC has received a copy of the draft version of this document dated 25 August 2023 (version 0.8) (HBA.0001.0001.1870).

A final version of this document created on 15 November 2023 and marked as version 08(a) is the latest version and will be produced in the production (HBA.0001.0001.3796)

Guidelines for raising an e-UAR (Unusual Activity Report). ASIC has received a marked-up version of this apparently created on 11 May 2023 (HBA.0001.0001.1854).

This is the latest version.

4. Based on ASIC's review of HBAU's spreadsheet dated 8 November 2024 in response to NTC2425818, there appears to be some inconsistency in HBAU's approach of informing customers of the outcome of an investigation, namely:

There are 66 occasions where HBAU told the customer of the outcome of the investigation before it completed its investigation. Of these occasion, 4 results are explained because HBAU has not provided a date on which it finalised its investigation; and

There are 427 occasions where HBAU informed a customer of the outcome of an investigation more than 10 days after completing its investigation.

We note ASIC's comment and understand from our discussions with ASIC that this has been reflected in the request in item 1 of the 14 November 2024 s33 notice.

In the production tranche that ASIC will receive today, HBAU has produced the outcome communications sent to the customers identified in the spreadsheets produced by HBAU in response to items 1 of the s912C notices dated 11 October 2024 and 18 October 2024.

8. On the assumption that HBAU may have such documents which have not been previously produced to ASIC, require HBAU to provide a list of policies, procedures, manuals or guidelines used by the FIM team or FC Major Investigations team during the Relevant Period for the investigation of FC-UARs (Financial Crime-Unusual Activity Report) of "Unauthorised Payments" as defined in the Fraud Classification and Reporting Standard dated November 2020 [BCB.1000.0001.0252] and to produce any such documents to ASIC (see item 3 of the s 912C Corporations Act notice barcoded NTC2426642).

We note that this request is substantially in the same form as item 3 of the s 912C notice dated 14 November, which we have responded to in Attachment C.

9. As discussed, we look forward to HBAU's response concerning any reportable situation reports lodged with ASIC concerning the subject matter of ASIC's ongoing investigation.

We understand this comment relates to an earlier query from [REDACTED] on 13 November 2024 as to whether HBAU intends to lodge an update to the report submitted to ASIC on 31 August 2023. HBAU intends to provide an update to that report and will do so as soon as possible.

We will come back to you as quickly as possible with the link to the document production.

Kind regards

*I support flexible working and I may send emails at unconventional times.
Please do not feel obliged to reply immediately if this email is received outside of your own working hours.*

[REDACTED]
Associate General Counsel - Head of Regulatory Legal, Australia and New Zealand

Telephone [REDACTED]

E-mail: [REDACTED]

Website: www.hsbc.com.au

Admitted in New South Wales, Australia

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"SAVE PAPER - THINK BEFORE YOU PRINT!"

From: [REDACTED] <[REDACTED]>

Sent: Friday, December 6, 2024 6:28 PM

To: [REDACTED] <[REDACTED]>

Cc: [REDACTED]

Subject: EXTERNAL: HBAU's response to s912C notices NTC2425818 dated 11 October 2024 and NTC2426028 dated 18 October 2024 [SEC=OFFICIAL]

Importance: High

This Message Is From an External Sender

This message came from outside your organisation. The content & any attachments need to be treated with care and attention.

Dear [REDACTED],

I refer to HBAU's response to s912C notices NTC2425818 dated 11 October 2024 and NTC2426028 dated 18 October 2024 (the **Notices**). The **attached** spreadsheet has been prepared by ASIC and combines those notice responses (**ASIC Combined Spreadsheet**).

The ASIC Combined Spreadsheet

In the ASIC Combined Spreadsheet we have identified a number of discrepancies in the data provided in a number of different categories (**Data Discrepancies**). We have checked those discrepancies against the spreadsheet produced by HBAU to ASIC to 25 November 2024 and confirm that Data Discrepancies also exist in that spreadsheet (**25 November 2024 Spreadsheet**). The Data Discrepancies are where it appears that:

1. one or more MTAs of the relevant customer were restricted or blocked **before** the date HBAU first received a report of the unauthorised transaction (rows 2 -14 shaded in orange);
2. restrictions or blocks that had been placed on relevant customers MTA were removed such that fully access was reinstated **before**:
 - a. the date HBAU received a report of the unauthorised transactions; or
 - b. the MTA was restricted or blocked (rows 15 - 38 shaded yellow);
3. the date HBAU completed its investigation is **before** the date a customer's MTA was the subject of a block or restriction (rows 39 – 44 shaded grey);
4. the date HBAU notified the customer of the outcome of its investigation is before it completed its investigation (rows 45 – 132 shaded in blue).

In light of the above, we request that HBAU review the rows shaded orange, yellow, grey and blue in the **attached** spreadsheet and either:

- A. confirm that the relevant dates are accurate and if so, provide an explanation as to how that is the case; or
- B. advise if any of the dates in those rows requires amendment.

To assist HBAU with that exercise, ASIC has, where possible, reviewed the underlying documents produced by HBAU and shaded cells in red where the date recorded in the spreadsheet does not match the relevant underlying document and included an explanatory note.

In addition to the above, we have also noticed a very small number of discrepancies between data included in the spreadsheets initially produced by HBAU in response to notices NTC2425818 and NTC2426028 and the data produced to ASIC in the 25 November 2024 Spreadsheet. In particular:

- I. UCM reference C231137882899 was originally referred in response to NTC2425818 but it is missing from the 25 November 2024 Spreadsheet.
- II. The 25 November 2024 Spreadsheet contains the following UCM references which appear in twice in the spreadsheet but which only appear once in the spreadsheet produced in response to NTC2425818 or NTC2426028:
 - a. C240138565876
 - b. C240138446353
 - c. C230536034232 – we note that this line entries which both have this UCM reference have different customer IDs and names associated with the different entries.
 - d. C240238787869
- III. The spreadsheets produced in response to notices NTC2425818 or NTC2426028 contained duplicate entries for the below UCM references but those UCM references only appear **once** in the 25 November 2024 Spreadsheet.
 - a. C220531899979
 - b. C231137981656
 - c. C240238574865
 - d. C240539520284
 - e. C240739873486

We note that HBAU is due to provide an updated version of the 25 November 2024 Spreadsheet to ASIC which contains additional document ID references. Can you please consider the above Data Discrepancies and make any necessary amendments to the data such that the next version of the spreadsheet provided to ASIC resolves those issues, or they are otherwise explained to ASIC.

Should you have any questions, please do not hesitate to contact us.

Kind regards,

██████████
Senior Lawyer, Investigation & Enforcement Action
Enforcement and Compliance

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2000

Tel: ██████████
████████████████████



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"SAVE PAPER - THINK BEFORE YOU PRINT!"

From: [REDACTED] <[REDACTED]>

Sent: Monday, 10 March 2025 5:02 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: EXTERNAL: RE: HBAU Productions due 20 February [SEC=OFFICIAL:Sensitive]

Good afternoon [REDACTED]

Hope you are well.

We refer to the HBAU production received on 20 February 2025 and raise the following queries. We would be grateful for a response as soon as possible.

Data discrepancy

1. We refer to the four spreadsheets produced by HBAU in the zip file titled '130 queries' in response to Mr [REDACTED] email dated 6 December 2024.
2. Paragraph 4 of [REDACTED] email identified that the date HBAU notified customers of the outcome of its investigation was before it completed its investigation in rows 45-132 of the ASIC Spreadsheet. This represents a total of 88 different customers.
3. HBAU produced a spreadsheet titled 'Table D – Rows 45 – 132 20.02.2025' in response to this query. The spreadsheet only provides data for 40 customers.
4. We understand that HBAU have only provided data for the customers in which the information in the ASIC Combined Spreadsheet is incorrect. That is, we understand that any rows identified by ASIC but not included in Table D are accurate for the reasons set out in HBAU's letter dated 20 February 2025 at paragraph 12(d). Can you please confirm this is correct.

Other data discrepancies in HBAU's spreadsheets

1. We refer to four versions of the unauthorised transactions spreadsheet produced by HBAU:
 - a. 'Attachment A Q1 NOTICE NTC2425818' provided on 1 November 2024 in response to the section 912C notice dated 11 October 2024 (**1 November sheet**);
 - b. 'Attachment A Q1 NOTICE NTC2425818' provided on 8 November 2024 in response to the section 912C notice dated 11 October 2024 which was a 'reproduced' version of the unauthorised transactions spreadsheet by HBAU but included most of the Nuix references for the investigation reports listed in the 1 November sheet (**8 November sheet**);
 - c. 'Attachment A – NOTICE NTC2426028' provided on 13 November 2024 in response to the section 912C notice dated 18 October 2024 (**13 November sheet**); and
 - d. 'Attachment C 2024.11.25 - Response to item 1 of the s912C Notice dated 14 November 2024' provided on 25 November 2024 in response to the s 912C notice dated 14 November 2024 (**25 November sheet**).
2. We have identified discrepancies relating to some of the UCM references.
 - a. The first issue is that in the 25 November sheet, at least 194 of the UCM references have shifted one row down as compared to those in the 8 November sheet. This means the UCM reference in certain rows relates to the data in the row immediately above. See, rows 194 to 386.

- b. The second issue is in respect the new rows / customers added to the 25 November sheet (these were not in the 8 November sheet). It seems that approximately 33 of these customers have been assigned a UCM reference in the underlying documents (final investigation reports or other similar documents) that do not match what has been provided in the 25 November sheet.
3. We have prepared the **attached** spreadsheet (Discrepancies in authorised transactions spreadsheet) that includes unedited versions of both the 8 November and 25 November sheets as well as two additional sheets setting out the discrepancies.
4. The third sheet is titled 'Comparison' and it:
 - a. compares the list of UCM references, customer IDs and names of the two sheets;
 - b. shades in **green** any rows in the 25 November sheet where the UCM reference has shifted as compared to the 8 November sheet. In the column titled 'UCM Corrections' we have inserted what we consider to be the correct UCM reference; and
 - c. colours in **red** the font of any values within any of cells that only appear once in the sheet, which addresses the issue described in paragraph 8 above. For the 33 customers identified as having the issue, we have provided an updated UCM reference in the 'UCM Corrections' column.
5. The fourth sheet is titled '25 November Sheet (corrections)'. In this version of the 25 November sheet, we have inserted what ASIC considers to be the correct UCM references in **yellow** highlight. We confirm that these are the only changes we have made to the 25 November sheet in the fourth sheet.
6. Please confirm that the data in the '25 November Sheet (corrections)' is correct, including the corrections ASIC has made in column A.

Document IDs

1. We refer to the table produced by HBAU titled 'Item 9 of [REDACTED] E-mail – Requests set out in [REDACTED] e-mail of 28 November 2024' in response to [REDACTED] email on 20 December 2024 and [REDACTED] email on 28 November 2024.
2. HBAU have provided the following in the table and produced some of the associated documents:
 - a. document IDs for 16 investigation reports; and
 - b. document IDs for 26 copies of HBAU's advice in writing to customers that more time was needed to complete its investigation.
3. According to [REDACTED] email and the accompanying spreadsheet, the document IDs for 19 documents where HBAU informs customers that more time was needed to complete its investigation (see cells highlighted **blue** in column f3 of the **attached** spreadsheet) remain outstanding.
4. Can you please confirm whether these documents exist and if the document IDs will be produced to ASIC.

We are otherwise considering the completeness of HBAU's production on 20 February 2025 more broadly, including in respect of item 1 of s 33 notice NTC2427101 and item 9(a) of s 33 notice NTC2426643.

Please do not hesitate to contact us if you have any questions.

Regards

[REDACTED]
Investigator, Investigation & Enforcement Action
Enforcement & Compliance

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney NSW 2000

Tel: [REDACTED]
[REDACTED]



ASIC

From: [REDACTED]

Sent: Thursday, 20 February 2025 5:34 PM

To: [REDACTED]

[REDACTED]
[REDACTED]

Subject: HBAU Productions due 20 February

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear [REDACTED]

Please see the production link for todays production below.

[REDACTED]

The relevant password will be provided separately.

We also attach:

- A covering letter.
- A table of NUIX IDs referred to in the letter.
- A zip folder with responses to Sergei Smirnov's queries dated 6 December 2024. The relevant password will be provided separately.
- A privilege schedule.

Yours sincerely

*I support flexible working and I may send emails at unconventional times.
Please do not feel obliged to reply immediately if this email is received outside of your own working hours.*

[REDACTED]
Associate General Counsel - Head of Regulatory Legal, Australia and New Zealand

Telephone [REDACTED]

E-mail: [REDACTED]

Website: www.hsbc.com.au

Admitted in New South Wales, Australia

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Lorraine Hui
Lorraine.Hui@ashurst.com
Contact:
Judy Reid
Judy.Reid@ashurst.com

18 December 2024

By email fprickett@claytonutz.com

Fred Prickett
Partner
Clayton Utz
Level 18, 333 Collins Street
Melbourne VIC 3000

Dear Mr Prickett

**Australian Securities and Investments Commission v HSBC Bank
Australia Limited
Federal Court of Australia proceeding no. VID1368/2024**

We act for HSBC Australia (**HBAU**) in this proceeding.

In the course of ASIC's investigation, HBAU has responded to various notices issued by ASIC requiring provision of written statements.

On 6 December 2024, HBAU received an email from Mr [REDACTED] of ASIC relating to HBAU's response to s912C Notices barcoded NTC2425818 and NTC2426038 (a copy of the email is **enclosed** (without attachments)). The email referred to certain data discrepancies identified by ASIC in the spreadsheets produced by ASIC in response to those Notices on 1 November 2024 and 8 November 2024 and clarification from HBAU in relation to approximately 130 different line items in the spreadsheets.

HBAU has not yet substantively responded to ASIC's query on 6 December 2024. We are instructed that HBAU had indicated to ASIC on 12 December 2024 that it would need until 4pm on 19 December 2024 to respond.

However, in the meantime, ASIC commenced proceedings and it appears that Schedule F of the Statement of Claim comprises of or largely comprises of data produced by HBAU in those spreadsheets which were the subject of ASIC's queries on 6 December 2024.

In those circumstances, and noting that in any event, our client requires further time to verify the data particularly in light of the upcoming public holidays, HBAU intends to deal with the allegations in relation Schedule F of the Statement of Claim as part of its Defence to the extent it considers necessary or appropriate (that is, that rather than responding informally to ASIC's email of 6 December

2024, our client proposes to address the matters raised in ASIC's email as necessary or appropriate in its defence).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Ashurst'.

Ashurst

From: [REDACTED]
Sent: Friday, 20 December 2024 10:23 AM
To: [REDACTED]
Subject: production and breach reporting update

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear [REDACTED],

I wanted to give you an update on the final production items and our recent breach report update.

I also want to reassure ASIC that we are keen to continue to maintain the good co-operative relationship that we have had through the investigation phase. HSBC prides itself on having good relationships with our regulators.

Final compliance with Production Notices

In relation to the outstanding notices issued prior to the commencement of proceedings, I confirm our intention is to follow through and produce documents required under those notices. As discussed, there are some challenges right now given the time of year. We realistically expect that we will be able to complete the production on Wednesday 15 January 2025. We will keep you updated of progress in the New Year.

Breach Reporting updates

I note ASIC's comments from our recent meeting about notifying the investigation team when we lodge relevant breach reports on ASIC's breach reporting portal. We apologize for not notifying you of our most recent lodgement. We had incorrectly assumed that this would immediately come to your attention. In future, we will ensure you and your team are notified of all breach reporting lodgements relating to this matter.

Accordingly, I want to assure you that work is progressing to finalise the investigation the subject of our prior ongoing investigation reports. We expect to be able to provide a further formal update on this by Friday 31 January 2025.

Thanks
[REDACTED]

[REDACTED]
General Counsel
HSBC Australia and New Zealand
Tower 1, International Towers Sydney
Level 36, 100 Barangaroo Avenue
SYDNEY NSW 2000 AUSTRALIA

E-mail: [REDACTED]
Phone: [REDACTED]
Website: www.hsbc.com.au

(Admitted as a solicitor in New South Wales and England & Wales)

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judy.reid@ashurst.com

10 March 2025

Mr Fred Prickett and Ms JK Muckersie
Clayton Utz
Level 18, 333 Collins Street
Melbourne VIC 3000

Dear Colleagues

**Australian Securities and Investments Commission v HSBC Bank
Australia Limited (ACN 006 434 162)
Federal Court of Australia Proceedings VID 1368 / 2024**

We refer to the above Proceedings and your letter of 28 February 2025.

Please find attached a notice of change of solicitor in respect of the Proceedings.
We ask that all correspondence be directed to Felicity Healy going forward.

Your client has indicated on a number of occasions that it intends to amend the Statement of Claim filed on 13 December 2024. The exact details of the proposed amendments are yet to be provided beyond an indication of possible generalised topics that are in contemplation but not yet finally considered.

The response provided to the request for further and better particulars states, in a number of instances, that it is ASIC's intention to further amend the Statement of Claim to clarify its case. There is however no clear indication of what those amendments will entail or how ASIC intends that its case will be advanced.

To ensure that the defendant does not expend unnecessary costs in response to the current Statement of Claim, we ask that you please provide, as a matter of urgency, further information as to the nature and scope of the proposed amendments to the Statement of Claim and indication of timing with respect to those amendments.

As you would appreciate, any substantive amendments to the Statement of Claim will need to be carefully considered by our client and may result in our client requiring further time to prepare its defence. Our client reserves the right to seek additional time to respond to any Amended Statement of Claim including a request for further and better particulars should that be considered necessary.

Yours sincerely



Ashurst

NOTICE OF FILING

Details of Filing

Document Lodged: Notice of Acting - Change of Lawyer - Form 5 - Rule 4.04(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 6/03/2025 7:15:48 PM AEDT
Date Accepted for Filing: 7/03/2025 12:01:00 PM AEDT
File Number: VID1368/2024
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v HSBC
BANK AUSTRALIA LIMITED ACN 006 434 162
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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.

The date of the filing of the document is determined pursuant to the Court's Rules.



Notice of acting – change of lawyer

No. VID1368 of 2024

Federal Court of Australia
District Registry: Victoria Registry
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

HSBC BANK AUSTRALIA LIMITED ACN 006 434 162

Defendant

HSBC BANK AUSTRALIA LIMITED ACN 006 434 162, the Defendant, has appointed Felicity Healy, Ashurst to represent the Defendant in the proceeding in the place of Lorraine Hui, Ashurst.

The address for service of the Defendant is:

Place: Ashurst Australia

Level 11, 5 Martin Place

SYDNEY NSW 2000

Attention: Felicity Healy

Email: felicity.healy@ashurst.com

Date: 6 March 2025


Signed by Felicity Healy
Lawyer for the Defendant

Filed on behalf of (name & role of party)	HSBC Bank Australia Limited, the Defendant		
Prepared by (name of person/lawyer)	Felicity Healy		
Law firm (if applicable)	Ashurst Australia		
Tel	02 9258 6150	Fax	N/A
Email	felicity.healy@ashurst.com		
Address for service (include state and postcode)	Level 11, 5 Martin Place, Sydney NSW 2000		

[Form approved 01/08/2011]

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Contact:
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judy.reid@ashurst.com

24 April 2025

Fred Prickett and JK Muckersie
Clayton Utz
Level 18, 333 Collins Street
Melbourne VIC 3000

Dear Colleagues

**Australian Securities and Investments Commission v HSBC Bank
Australia Limited (ACN 006 434 162)
Federal Court of Australia Proceedings VID 1368 / 2024**

We refer to:

- (a) your letter dated 20 March 2025 (including provision of an Amended Statement of Claim), your email dated 31 March 2025, your letter dated 4 April 2025 (including a refined Amended Statement of Claim and Amended Concise Statement) and email dated 10 April 2025 (including an Amended Originating Process);
- (b) our letter dated 26 March 2025; and
- (c) the discussion between Ms Felicity Healy of this office and your Mr Fred Prickett on Thursday 10 April 2025 and again on 15 April 2025.

On 10 April 2025 Ms Healy called Mr Prickett to inform him that she had taken over the day-to-day conduct of the matter and to establish a line of communication between the parties. Ms Healy indicated there had been a process of looking back over the information that had been gathered previously, provided to ASIC and formed part of the Statement of Claim. Ms Healy indicated that the look back had revealed certain data inaccuracies. Given the progress of the proceedings to date (including the amendments to the schedules in the Statement of Claim and proposed amendments to the Originating Process), and in order to ensure transparency between the parties, we wanted to draw the matter to your attention.

As you are aware, data was required to be provided by HSBC to ASIC pursuant to various notices issued by ASIC pursuant to section 912C of the Corporations Act including those dated 11 October 2024 (NTC2425818) and 18 October 2024 (NTC2426028) and 8 November 2024 (NTC2426457). Given the nature of the data set requested by ASIC, HSBC was required to gather and review it manually.

The timeframes under which the information was required to be provided was truncated and in providing the information, HSBC indicated that it had used its best endeavours to collate the data in the time available. In some instances, HSBC indicated that due to the historic nature of some of the data requested, there were some instances where HBAU had not been able to locate the information in the available time.

Notwithstanding the filing of the Originating Process and Statement of Claim by ASIC on 13 December 2024, HSBC continued to respond to the outstanding compulsory notices issued by ASIC on 18 October 2024 and 4 December 2024. On 20 December 2024 HSBC confirmed that it would continue to produce documents pursuant to notices issued by ASIC prior to the commencement of the proceedings. ASIC foreshadowed at the case management hearing on 7 February 2025 the fact that information was to be provided by HSBC by 20 February 2025 and that it was waiting to see that information for the purpose of amending the Statement of Claim [P-3 L 7-9 and 26-38]. Accordingly, HSBC continued to produce documents and information to ASIC on 15 January 2025 and 20 February 2025. To this end, any concern on the part of ASIC around possible delays in filing the defence must be considered in the context of this factual background. At its highest - acknowledging the statutory holiday period and closing of the Courts, our client has had approximately three months to complete production and commence preparation of the defence.

The nature and extent of the matters arising as part of the look back is still being considered but will likely entail that HSBC will require some additional time to file its defence in these proceedings. We anticipate being in a position to provide more information and likely timing of the defence by the end of April.

Yours sincerely



Ashurst

Email

1 May 2025

Felicity Healy
Partner
Ashurst
Level 11, 5 Martin Place
SYDNEY NSW 2000
felicity.healy@ashurst.com

Dear colleagues

**Australian Securities and Investments Commission v HSBC Bank Australia Limited
Federal Court of Australia proceeding VIC1368/2024**

We refer to your letter dated 24 April 2025.

1. Your client is required, by the orders made by the court on 25 February 2025, to serve its defence by 8 May 2025.
2. The statement of claim was served on 13 December 2024. Accordingly, your client has had nearly five months to prepare its defence. The limited scope of the amendments made to the statement of claim on 20 March and 4 April 2025 do not justify further delay on the defence.
3. Despite our request on 15 April 2025, you have not provided any detail on the nature and extent of the "data inaccuracies" revealed by the "look back". In your letter, you say that you anticipate being in a position to provide more information regarding the "look back" and the timing of your client's defence by the end of April. That has not happened. Our client does not regard this as transparent or cooperative.
4. Our client also refutes any suggestion in your letter that the as yet unspecified "data inaccuracies" revealed by the "look back" are somehow justifiable by reference to the history of your client's engagement with our client during the investigation leading to this proceeding. We do not propose to traverse the history of that engagement in this letter. We will, however, do so if it is necessary for the court to be properly apprised of these matters.
5. It is also somewhat vexing that on the one hand, you have said that your client has provided inaccurate information to our client in response to statutory notices, which information our client has relied upon to prepare the statement of claim and amended statement of claim, while on the other hand, in your letter of 17 April 2025, your client invited our client to file the amended statement of claim.
6. Our client awaits prompt and transparent disclosure of the data inaccuracies and otherwise expects the defence to be filed on 8 May 2025.

Yours sincerely



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Our ref:
FHEALJURE\1000-194-523

9 May 2025

Fred Prickett and JK Muckersie
Clayton Utz
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Melbourne, VIC 3000

Dear Colleagues

**Australian Securities and Investments Commission (ASIC) v HSBC
Bank Australia Limited (HSBC)
Federal Court of Australia proceeding VID1368/2024**

1. We refer to recent correspondence and in particular:

- (a) s912C notice issued by ASIC on 19 September 2024 (NTC 2425463);
- (b) s912C notice issued by ASIC on 11 October 2024 (NTC 2425818);
- (c) s912C notice issued by ASIC on 18 October 2024 (NTC 2426028);
- (d) s912C notice issued by ASIC on 8 November 2024 (NTC 24226457);
- (e) s912C notice issued by ASIC on 14 November 2024 (NTC 2426642); and
- (f) Amended Statement of Claimed served on 20 March 2025 (**ASOC**).

Background

2. For the period between 19 September 2024 and 4 December 2024, HSBC received approximately 16 statutory notices (**Notices**) from ASIC seeking production of information and/or documents in connection with its investigation. Pursuant to the various Notices issued by ASIC across that period, ASIC directed HSBC to provide a range of customer information including the following:

- (a) the date on which HSBC received a report of an unauthorised transaction;
- (b) details of the customer who made the report referred to in (a);
- (c) the details of any investigation conducted into the reported unauthorised transaction;

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- (d) the date that HSBC restricted or blocked a customer's account (following receipt of information of unauthorised activity), the type of block and the date the block or restriction was removed;
- (e) the date the relevant customer's full use and access to the relevant account was reinstated; and
- (f) the amount of any loss suffered by the customer as a result of the reported unauthorised transaction,

for relevant customers for the period 1 January 2020 to 31 August 2024 (**Customer Data**). The combined effect of the Notices was the collation of approximately 27 points of Customer Data for circa 950 customers.

3. We are instructed that in order to collate the information sought by ASIC, a combination of predominantly manual processes were employed. Amongst other things, this involved interrogating and collating information from multiple data sources (including emails and file notes of customer interactions) across multiple bank systems within a truncated time period (in some cases, requiring collection and production within a two week period) and at pace. Additionally some of the data requested involved consideration of multiple transactions that were split across a number of accounts and required detailed manual review.
4. In the time provided under the Notices, appropriate steps were taken to assess the veracity of the information collated (including sample checking for the purposes of quality assessment). However, given the time constraints and the volume of information sought, a full verification of the data in respect of each and every data field was not possible at that time. As foreshadowed in our earlier correspondence, since that time HSBC has undertaken a full look back at the Customer Data to ascertain whether any inaccuracies could be identified.
5. Having regard to the above, the purpose of this letter is to provide ASIC with an update regarding what HSBC has identified to date and to propose options for progressing the proceedings going forward.

Proceedings

6. ASIC commenced the existing proceedings on 13 December 2024. Amongst other things, the ASOC asserts that HSBC failed to comply with s912A(1)(a) and (5A) of the *Corporations Act 2001* (Cth) and s47(1)(a) and (4) of the *National Consumer Credit Protection Act 2009* (Cth). As can be seen from the ASOC, the Customer Data (and consequently, the accuracy of this data) is pertinent to many critical aspects of the proceedings.
7. By way of example, in "Part D.3 Significant increase in Consumer losses from Unauthorised Payments from May 2023" and in particular paragraph 29 of the

ASOC, ASIC pleads that HSBC's customers lost significant sums of money as a result of significantly increased volumes of Unauthorised Payment activity (as defined in the ASOC). The particulars to that paragraph refer to the responses provided by HSBC to ASIC pursuant to Notices which set out customer losses purported to have been identified at that time.

8. Further, in "Part E. Investigating and Responding to Unauthorised Transaction Reports" of the ASOC, ASIC sets out a number of allegations regarding alleged inadequate systems and processes for investigating unauthorised transactions, and in particular, by cross reference to Schedule F of the ASOC, identifies HSBC customers who had lodged a report of one or more "unauthorised transactions" (UARs) over the period 1 January 2020 to 31 August 2024.
9. By way of summary, Schedule F of the ASOC sets out, amongst other things, the following information:
 - (a) a unique identifier for the customer who lodged a UAR;
 - (b) the date that HSBC received the UAR;
 - (c) the date which HSBC completed its investigation; and
 - (d) the date which HSBC advised the customer of the outcome of its investigation.
10. In "Part F. Delay in Reinstating Blocked Customer's Bank Accounts" of the ASOC, ASIC sets out a number of allegations regarding perceived deficiencies in HSBC's response to reinstate customer access including allegations of breaches of compliance with the personal banking booklet (which include obligations sourced from the Banking Code of Practice). These allegations in part rely on data included in Schedule H of the ASOC.
11. By way of summary Schedule H of the ASOC sets out, amongst other things, the following information:
 - (a) the date HSBC restricted or blocked a customer account;
 - (b) the nature of the block / restriction;
 - (c) the date HSBC notified the customer of the process to remove the block / restriction; and
 - (d) the date the customer's full use and access to the relevant account was reinstated.
12. Following the various productions pursuant to the Notices (up to and including the final production on 20 February 2025), we are instructed that in December 2024 and March 2025 ASIC raised queries regarding discrepancies in the data provided

by HSBC. Accordingly, as a result of the commencement of the proceedings, further consideration of the information provided to ASIC and the additional queries raised by ASIC, HSBC commenced a look back into the Customer Data the subject of the proceedings.

13. Part of this look back has involved undertaking an assessment of the original data sets and identification of alternative data sources including undertaking secondary data pulls from various sources (considered to be more reliable than manual extraction and/or interrogation alone) and deployment of significant resources. By way of example, HSBC has instigated a comprehensive automated secondary data pull of all of the systems that facilitate the blocking and restricting of accounts for the impacted customers to test the accuracy of the information provided.
14. Given the scale and particularity of the data set, the centralised pull of verification data has taken some time.¹ Additionally, consideration of the data to identify variances for each customer and the aggregation of the information across the cohort, has required complicated data processing.
15. This task is now largely complete and as a consequence of the work undertaken, HSBC has unsurprisingly identified a number of variances in the Customer Data that was previously produced to ASIC in response to the Notices. This has in part been driven by differences of approaches in the interpretation of "authorised" and "unauthorised" transactions, which are fundamental to the drafting of the ASOC. To this end we are instructed that HSBC wishes to advise ASIC of the following matters relevant to the ASOC:
 - (a) **Impacted Customers:** As part of the data reconciliation exercise identified above, HSBC has identified circa 83 additional impacted customers. HSBC intends to provide an updated spreadsheet which includes the data fields for the additional customers;
 - (b) **Schedule F:** As part of the data reconciliation exercise, HSBC has formed the view that certain information which has been provided pursuant to the Notices and now appears in Schedule F is incorrect. In particular, information for some customers recording the date which HSBC completed its investigation and the date which HSBC advised the customer of the outcome of its investigation requires amendment. Accordingly HSBC proposes to provide a replacement to Schedule F; and
 - (e) **Schedule H:** As part of the reconciliation exercise, HSBC has formed the view that some of the information which has been provided and now appears in Schedule H is also incorrect. In particular, for some customers, the date HSBC restricted or blocked a customer account; the nature of the

block / restriction; the date HSBC notified the customer of the process to remove the block / restriction; and the date the customer's full use and access to the relevant account was reinstated requires amendment. Accordingly HSBC proposes to provide a replacement to Schedule H.

Next Steps

16. In light of the above, our client proposes two possible options for ASIC's consideration to ensure that the litigation is being progressed as expeditiously as possible:

- (a) **Option 1:** ASIC be provided with updated Customer Data for all of the impacted spreadsheets including a revised version of Schedules F and H. Following which the parties agree consent orders to the following effect:
- (i) the existing timetable be varied;
 - (ii) HSBC consents to the filing of a Further Amended Statement of Claim (which contains the corrected data) and Amended Originating Process by ASIC;
 - (iii) requiring the filing of the defence shortly thereafter;
 - (iv) a case management hearing to follow the filing of the defence.

This option has the advantage that it will narrow the issues in dispute before the Court.

- (b) **Option 2:** HSBC files its defence but in respect of the Customer Data inaccuracies, it pleads denials in respect of the information contained in Schedules F and H and sets out the correct Customer Data. Following which, the matter be relisted for a case management hearing for orders in respect of the next steps of the proceedings.

17. Our client is content to proceed with either alternative.

18. Should your client wish to set up a meeting to discuss any questions it may have or the above proposal in more detail, please let us know.

19. We look forward to hearing from you.

Yours sincerely

Ashurst

Email

12 May 2025

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Dear colleagues

**Australian Securities and Investments Commission (ASIC) v HSBC Bank Australia Limited (HSBC)
Federal Court of Australia proceeding VID1368/2024**

We refer to your letter of Friday, 9 May 2025.

1. ASIC considers it entirely unsatisfactory that:
 - (a) HSBC has failed to serve a defence;
 - (b) HSBC is thereby in breach of the order made by the Court requiring HSBC to serve its defence by 8 May 2025;
 - (c) HSBC has not sought to approach the Court to address its breach of the Court's order.
2. As we noted in our letter dated 1 May 2025, HSBC has had nearly five months to prepare its defence. None of the matters referred to in your letter justify further delay.
3. ASIC also rejects any suggestion that HSBC has any lawful excuse for the provision of inaccurate information in response to statutory notices. This is of itself a separate, serious matter. ASIC does not accept any suggestion that the statutory notices issued to HSBC were unduly onerous. If HSBC maintained adequate records, it should not have been difficult to respond, accurately, to such notices. The fact that HSBC is apparently still "undertaking an assessment of the original data sets and identification of alternative data sources" almost seven months after ASIC's first statutory notice was issued is itself evidence of the deficiencies in HSBC's systems and processes (and ASIC reserves its position in relation to the implications of any such deficiencies).
4. It is also remarkable that notwithstanding these matters, your letter does not attach:
 - (a) the 'corrected' Customer Data; or
 - (b) HSBC's revised versions of annexures F and H, which it says it will provide, in paragraph 16 of your letter, in any event.
5. In order to consider its position, ASIC requires that HSBC, by no later than 4.00 pm on Tuesday, 13 May 2025:
 - (a) provide the information referred to in paragraph 4 above; and
 - (b) say when it proposes to file its defence under 'option 2' referred to in paragraph 16(b) of your letter if ASIC determines that option to be suitable.

Felicity Healy, Ashurst

12 May 2025

6. For the avoidance of doubt and to ensure HSBC is on notice, ASIC does not consider that HSBC is taking a reasonable or cooperative approach to this matter and may make submissions to that effect in due course on the question of penalties (should that become relevant).

Yours sincerely



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Our ref:
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13 May 2025

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Dear Colleagues

**Australian Securities and Investments Commission v HSBC Bank
Australia Limited (ACN 006 434 162)
Federal Court of Australia Proceedings VID 1368 / 2024**

We refer to our letter dated 9 May 2025 and your letter dated 12 May 2025.

We acknowledge your comments in relation to the delay in the service of the defence.

To the extent that our previous correspondence may not have been clear, the purpose of that correspondence was, in the interest of transparency and openness, to flag the likely delay in the filing of the defence and consequent reasons for that delay and to agree a way forward.

The data inaccuracies identified as part of the discussion between Ms Felicity Healy of this office and your Mr Fred Prickett on Thursday 10 April 2025 and again on 15 April 2025 and the subject of various subsequent correspondence, in our view, will not materially change the nature of allegations the subject of the Amended Statement of Claim. The data is however specifically pleaded throughout the Amended Statement of Claim as well as attached as annexures to the pleading and as such must be responded to in the defence.

In the light of the work currently being undertaken in relation to the data (including in Annexures F and H of the Amended Statement of Claim) we anticipate that HSBC will be able to file its defence by 13 June 2025. We will, of course, make the amended data sets available as soon as it is available.

We are instructed that HSBC wishes to apologise for any inconvenience this delay may have caused ASIC and we hope this letter clarifies HSBC's intention.

Please feel free to discuss this with us further if you have any questions.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ashurst', with a stylized flourish at the end.

Ashurst

Email

13 May 2025

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Dear colleagues

Australian Securities and Investments Commission (ASIC) v HSBC Bank Australia Limited (HSBC)
Federal Court of Australia proceeding VID1368/2024

We refer to your letter of today.

1. Please let us know, as a matter of immediate priority, when the corrected Customer Data and HSBC's revised versions of annexures F and H will be provided.
2. ASIC will determine its position once it has had the opportunity to review the corrected data and revised annexures.

Yours sincerely



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16 May 2025

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Dear Colleagues

**Australian Securities and Investments Commission v HSBC Bank
Australia Limited (ACN 006 434 162)
Federal Court of Australia Proceedings VID 1368 / 2024
("Proceedings")**

Thank you for your letter dated 13 May 2025.

We are working as quickly as possible to update all of the Schedules annexed to the Amended Statement of Claim and, as foreshadowed in our letter dated 13 May 2025, intend to provide copies to ASIC as soon as the information is available.

The task of verifying and validating all of the data sets, the subject of the Proceedings, involves complex manual construction of the data sets. The task is further complicated by the fact that the data sets are bespoke and before they can be readily interpreted, either require a level of manual consideration or significant back end data collection and analysis. Consequently, the data is unfortunately not in a format which would easily allow extraction of a sample at the present time.

Notwithstanding this, we are cognisant of the urgency in connection with this task and are working as quickly as possible. We anticipate that the **corrected Customer Data and HSBC's revised versions of annexures F and H** will be provided by Tuesday 10 June 2025.

In the interim, HSBC proposes to provide ASIC with updates so that ASIC can be kept abreast of progress and any concerns can be addressed quickly.

Please feel free to reach out if you have any questions or wish to discuss any of the above further.

Yours sincerely



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20 May 2025

Dear colleagues

Australian Securities and Investments Commission (ASIC) v HSBC Bank Australia Limited (HSBC)
Federal Court of Australia proceeding VID1368/2024

We refer to your letter of 16 May and the CMH listed for 26 May.

1. ASIC considers it objectionable that HSBC:
 - (a) has not complied with the order made by the Court that it serve its defence by 8 May;
 - (b) has not approached the Court to address its failure to comply with an order made by the Court;
 - (c) has not served its defence because (it asserts) it produced incorrect or inaccurate information to ASIC in response to statutory notices, which information was relied upon by ASIC in preparing its statement of claim and amended statement of claim;
 - (d) is not able to correct the asserted errors in the information provided to ASIC in a timely manner;
 - (e) has offered to provide ASIC with what it will apparently contend is corrected customer data and revised versions of schedules F and H to reflect that data, but has not committed to a date by which it will do so, other than to say it anticipates being able to do so by 10 June;
 - (f) has not committed to a date by which it will serve its defence, other than to say it anticipates being able to do so by 13 June.
2. In the event that HSBC proposes to seek an order for an extension in time for the filing of its Defence, ASIC considers that HSBC should provide a properly detailed affidavit explaining the reasons for the delay in the filing of its defence, including why HSBC requires a further three weeks to regularise its position. It would seem that such an affidavit is in any event necessary as a courtesy to the Court. ASIC will consider its position in relation to any proposed orders put forward by HSBC after receipt of such an affidavit.
3. Please confirm by return that HSBC will file and serve an affidavit to this effect as a matter of priority, and in any case such that it is provided sufficiently in advance of the case management hearing so that it can be properly considered by ASIC and the Court in the context of determining the appropriate orders to be made to manage the proceeding going forward.
4. More generally, we observe that clause 45.1 of the ePayments Code provides that a subscriber, such as HSBC, may be required to report information about compliance with specific clauses of the Code as part of targeted compliance monitoring activities undertaken by ASIC or its agent. It is confounding to ASIC that, given this requirement, HSBC did not have complete and accurate information readily available at the time the unauthorised transaction data was first requested under statutory notice on 11 October 2024. It is even more confounding that HSBC remains unable to promptly provide the corrected customer

data. ASIC expects that given this obligation, the affidavit prepared in support of your client's request for an extension of time for its defence should address why it has not been able to report complete and accurate information in compliance with this clause.

5. For the avoidance of doubt, ASIC requires HSBC to provide an updated and correct version of the unauthorised transaction spreadsheet which HSBC was last required to provide pursuant to s 912(C)(1) notice NTC2426642 issued by ASIC on 14 November 2024.
6. ASIC otherwise reserves its position in relation to the CMH, including as to costs.

Yours sincerely



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