# NOTICE OF FILING

**Details of Filing**

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| Document Lodged: | Statement of Claim - Form 17 - Rule 8.06(1)(a) |
| Court of Filing | FEDERAL COURT OF AUSTRALIA (FCA) |
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| File Number: | NSD1039/2021 |
| File Title: | WHITE OAK COMMERCIAL FINANCE EUROPE (NON-LEVERED) LIMITED v INSURANCE AUSTRALIA LIMITED ACN 000 016 722 |
| Registry: | NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA |




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.

Form 17
Rule 8.05(1)(a)

# Amended Statement of cross-claim

No. NSD1039 of 2021

Federal Court of Australia

District Registry: New South Wales

Division: Commercial and Corporations National Practice Area

**White Oak Commercial Finance Europe (Non-Levered) Limited**
Applicant

**Insurance Australia Limited (ACN 000 016 722)** and others named in the schedule
Respondents

**Insurance Australia Limited (ACN 000 016 722)**
Cross-claimant

**Tokio Marine & Nichido Fire Insurance Co Ltd (ACN 000 438 291)** and others named in the schedule
Cross-respondents

1. If, contrary to its defence in these proceedings, Insurance Australia Limited (**IAL**) is liable to the Applicant for any of the relief sought in the originating application, IAL advances the following pleadings by way of cross-claim.

## A PARTIES

2. The cross-claimant, IAL, is the first respondent in these proceedings. IAL is a company duly incorporated according to Australian law and capable of bringing this cross-claim.

3. The first cross-respondent, Tokio Marine and Nichido Fire Insurance Co Ltd (**Tokio Marine**), is the sixth respondent in these proceedings.

3A. The second cross-respondent, Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455) (**TMMA**), is the seventh respondent in these proceedings.

3B. The third cross-respondent, BCC Trade Credit Pty Ltd (**BCC Trade Credit**), is the second respondent in these proceedings.


Filed on behalf of (name & role of party) Insurance Australia Limited
Prepared by (name of person/lawyer) Malcolm Stephens
Law firm (if applicable) Allens
Tel +61 2 9230 4000 Fax
Email Malcolm.Stephens@allens.com.au
**Address for service** (include state and postcode) Level 28, 126 Phillip Street, Sydney NSW 2000

## B. CROSS-CLAIM AGAINST TOKIO MARINE FOR CONTRIBUTION

4. For the purposes of paragraphs 5 and 6 below and without admission, IAL refers to and repeats the allegations in the Applicant's Fifth ~~Fourth~~ Amended Statement of Claim in the proceedings (**White Oak 4~~5~~ASOC**).

5. If and to the extent that:

   a. IAL is found liable to the Applicant for loss as alleged in the White Oak 4~~5~~ASOC; and

   b. Tokio Marine is also found liable to the Applicant for that same loss,

   then (subject to s 1041P of the *Corporations Act*, s 12GT of the *ASIC Act*, s 87CF of the *Competition and Consumer Act* and s 36 of the *Civil Liability Act*) Tokio Marine is liable to contribute to IAL an amount that is just and equitable having regard to the extent of Tokio Marine's responsibility for the loss, by reason of section 5 of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW) and/or section 12 of the *Law Reform (Miscellaneous Provisions) Act 1965* (NSW).

6. Further or alternatively, if and to the extent that IAL is found liable to the Applicant for loss as alleged in the White Oak 4~~5~~ASOC, then (subject to s 1041P of the *Corporations Act*, s 12GT of the *ASIC Act*, s 87CF of the *Competition and Consumer Act* and s 36 of the *Civil Liability Act*):

   a. Tokio Marine is co-ordinately liable with IAL to the Applicant in respect of any such loss; and

   b. IAL is entitled to recover contribution from Tokio Marine in equity in respect of any liability IAL is held to have to the Applicant.

## C. CROSS-CLAIM AGAINST TMMA FOR CONTRIBUTION

7. For the purposes of paragraphs 8 and 9 below and without admission, IAL refers to and repeats the allegations in the White Oak 5ASOC.

8. If and to the extent that:

   a. IAL is found liable to the Applicant for loss as alleged in the White Oak 5ASOC; and

   b. TMMA is also found liable to the Applicant for that same loss,

   then (subject to s 1041P of the *Corporations Act*, s 12GT of the *ASIC Act*, s 87CF of the *Competition and Consumer Act* and s 36 of the *Civil Liability Act*) TMMA is liable to contribute to IAL an amount that is just and equitable having regard to the extent of TMMA's responsibility for the loss, by reason of section 5 of the *Law Reform*

*(Miscellaneous Provisions) Act 1946* (NSW) and/or section 12 of the *Law Reform (Miscellaneous Provisions) Act 1965* (NSW).

9. Further or alternatively, if and to the extent that IAL is found liable to the Applicant for loss as alleged in the White Oak 5ASOC, then (subject to s 1041P of the *Corporations Act*, s 12GT of the *ASIC Act*, s 87CF of the *Competition and Consumer Act* and s 36 of the *Civil Liability Act*):

    a. TMMA is co-ordinately liable with IAL to the Applicant in respect of any such loss; and

    b. IAL is entitled to recover contribution from TMMA in equity in respect of any liability IAL is held to have to the Applicant.

**D. CROSS-CLAIM AGAINST BCC TRADE CREDIT FOR CONTRIBUTION**

10. For the purposes of paragraph 11 and 12 below and without admission, IAL refers to and repeats the allegations in the White Oak 5ASOC.

11. If and to the extent that:

    a. IAL is found liable to the Applicant for loss as alleged in the White Oak 5ASOC; and

    b. BCC Trade Credit is also found liable to the Applicant for that same loss,

    then (subject to s 1041P of the *Corporations Act*, s 12GT of the *ASIC Act*, s 87CF of the *Competition and Consumer Act* and s 36 of the *Civil Liability Act*) BCC Trade Credit is liable to contribute to IAL an amount that is just and equitable having regard to the extent of BCC Trade Credit's responsibility for the loss, by reason of section 5 of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW) and/or section 12 of the *Law Reform (Miscellaneous Provisions) Act 1965* (NSW).

12. Further or alternatively, if and to the extent that IAL is found liable to the Applicant for loss as alleged in the White Oak 5ASOC, then (subject to s 1041P of the *Corporations Act*, s 12GT of the *ASIC Act*, s 87CF of the *Competition and Consumer Act* and s 36 of the *Civil Liability Act*):

    a. BCC Trade Credit is co-ordinately liable with IAL to the Applicant in respect of any such loss; and

    b. IAL is entitled to recover contribution from BCC Trade Credit in equity in respect of any liability IAL is held to have to the Applicant.

Date: 17 April 2026



Signed by Malcolm Stephens
Lawyer for the Cross-claimant

This pleading was prepared by Allens and settled by S Finch, D Thomas, D Hume, M Ellicott, C Ernst, N Wootton and H Cooper of counsel.

## Certificate of lawyer

I, Malcolm Stephens, certify to the Court that, in relation to the cross-claim filed on behalf of the cross-claimant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 17 April 2026

M Stephens

Signed by Malcolm Stephens
Lawyer for the Cross-claimant

**Schedule**

No. NSD1039 of 2021

Federal Court of Australia

District Registry: New South Wales

Division: Commercial and Corporations National Practice Area

**Respondents**

| | |
|---|---|
| Second Respondent: | BCC Trade Credit Pty Ltd (ACN 608 296 233) |
| Third Respondent: | Greg Brereton |
| Fourth Respondent: | Greensill Bank AG |
| Fifth Respondent: | Dr Michael Frege |
| Sixth Respondent: | Tokio Marine & Nichido Fire Insurance Co Ltd (ACN 000 438 291) |
| Seventh Respondent: | Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455) |

**Cross-respondents**

| | |
|---|---|
| Second Cross-respondent: | Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455) |
| Third Cross-respondent: | BCC Trade Credit Pty Ltd (ACN 608 296 233) |