

Form 59
Rule 29.02(1)

Affidavit

No. NSD719 of 2020

Federal Court of Australia
District Registry: NSW
Division: General

Etienne Alexiou

Applicant

Australia and New Zealand Banking Group Limited (ACN 005 357 522)

Respondent

Affidavit of: **Daniel Lee Tarraran**
Address: [REDACTED]
Occupation: Group General Manager, Markets Risk
Date: 17 November 2023

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I, Daniel Lee Tarraran, of [REDACTED], Group General Manager, Markets Risk, affirm:

- I am employed by the Respondent, Australia and New Zealand Banking Group Limited (ANZ). I am authorised to make this affidavit on behalf of ANZ.

Filed on behalf of (name & role of party) Australia and New Zealand Banking Group Limited, the Respondent
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2. I make this affidavit from my own knowledge, save where otherwise indicated. Where I depose to matters on the basis of information provided to me by other persons, I believe that information to be true.
3. I have been shown parts of the redacted affidavit of the Applicant (**Etienne**) affirmed on 21 December 2022 (the **Applicant's Affidavit**). In this affidavit, I respond to some of the matters raised in those parts. The absence of any response to a matter raised in the Applicant's Affidavit should not be understood as an acceptance or admission of that matter.
4. By making this affidavit, I do not intend to and have no instructions to waive privilege in any communication, or record of communication, that is the subject of privilege. Nothing in this affidavit ought to be construed as involving a waiver of privilege. To the extent that anything may be construed as a waiver of privilege, I withdraw and do not rely on that part of the affidavit.

Employment history with ANZ

5. I commenced employment with ANZ in 1994 on a one-year placement program from the RMIT University. In 1995, I was appointed to a permanent role and worked in various trading roles from the commencement of my employment until 2004.
6. I have held the following managerial roles since 2005:
 - (a) in 2005, I was appointed to the role of Senior Manager Balance Sheet Strategy;
 - (b) in 2006, I held the separate roles of Risk Reporting & Analysis Manager and Senior Manager Risk Reporting & Analysis;
 - (c) in 2008, I was appointed to the role of Executive Director Market Risk;
 - (d) in 2010, I was appointed to the role of Global Head of Market Risk; and
 - (e) in 2014, I was appointed to the role of Global Head of Traded Market and Markets Credit Risk on an international assignment in Singapore.
7. Since 2016, I have held the role of Group General Manager, Markets Risk. In this role, I am responsible for the risk oversight of ANZ's Markets business. This includes market risk, liquidity risk, counterparty credit risk, model validation, product governance and market surveillance.

Issuance and trading of short term funding instruments

8. In September 2011, one of the functions of Group Treasury was to issue short term funding instruments to fund ANZ's customer balance sheet and ensure that ANZ

maintained sufficient short term funding and liquidity to comply with prudential regulations and liquidity requirements as well as ANZ's internal risk appetite scenarios.

9. The issuance of short term funding instruments in September 2011 was the responsibility of the Short Term Funding Group within Group Treasury (the **STFG**). In or around September 2011, the primary short term funding instruments issued by ANZ were either Negotiable Certificates of Deposit (**NCDs**) or bank bills. In this affidavit, I refer to NCDs and bank bills as **Bank Bills**.
10. In September 2011, it was the responsibility of the Mismatch desk in the Balance Sheet Trading business unit within Global Markets (the **Mismatch Desk**) to manage the interest rate risk within ANZ's Banking Book (the **Banking Book**). This included the interest rate risk from the STFG issuing Bank Bills and any other item recorded in the Banking Book. Interest rate risk is the risk of loss arising from adverse changes in the overall and relative level of interest rates for different tenors across the yield curve. In September 2011, Etienne was the Head of Balance Sheet Trading and responsible for overseeing the operations of the Mismatch Desk and other portfolios.
11. At this time, the Trading desk within Global Markets (the **Trading Desk**) was responsible for managing a broader range of market risks (including interest rate risk) from trading book (the **Trading Book**) activities. Trading Book activities included the trading of Bank Bills and other products such as interest rate swaps and bonds. The Trading Book is separate from the Banking Book (but both reported within the Global Markets business).
12. In September 2011, members of the Trading Desk reported to Matt Morris, Head of Fixed Income Trading.

Trading data for 30 September 2011

13. In paragraphs 132 – 148 of the Applicant's Affidavit, Etienne describes the circumstances which he alleges caused him to form the opinion that, on 30 September 2011, "ANZ wanted to affect the BBSW rate set by trading in a way which was intended to benefit ANZ".
14. For the purposes of preparing this affidavit, I instructed Shaun Anderson, Director Market Risk (with assistance from Michael Liberman, Senior Manager Market Risk) to extract ANZ's Bank Bill Swap Rate (**BBSW**) rateset exposure and Bank Bill transactions for 30 September 2011 from the relevant ANZ systems (the **Trading Data**). Now produced, shown to me and marked '**Exhibit DLT-1**' is an electronic copy of the Trading Data.
15. The Trading Data provides a consolidated summary of ANZ's exposure to the 3 month BBSW rateset on 30 September 2011, the sale of 3 month Bank Bills on that day of

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existing stock held and any new issuance. This is then further broken down by key portfolio within ANZ. The data provided includes:

- (a) the 3 month BBSW rateset position in AUD billions;
- (b) the “delta” which is a market wide term used to describe the size of the interest rate risk. It is referred to as a delta as it shows the dollar value (loss or gain) for a 1 basis point change in interest rates;
- (c) the closing yield for the 3 month BBSW on 29 September 2011. This is an important reference as it highlights where any 3 month Bank Bills purchased prior to 30 September 2011 were marked for valuation purposes;
- (d) the sale yield on 30 September 2011 for the Bank Bills sold on that day (which were purchased prior to 30 September 2011);
- (e) the 3 month BBSW rateset yield;
- (f) the 3 month BBSW closing yield on 30 September 2011; and
- (g) the estimated profit and loss (P&L) and/or revaluation gain or loss relating to these activities on 30 September 2011.

16. Based on my review of the Trading Data, it shows the following:

- (a) the 3 month BBSW rateset was 4.7967% on 29 September 2011 and 4.9217% on 30 September 2011. This was an increase to the yield of 12.5 basis points (each “basis point” being equivalent to 0.01%). Yield refers to the annualised rate of return on instruments such as Bank Bills. In my experience working in trading roles at ANZ, historically it was common practice for banks to sell their holdings on the last day of the month or quarter which could result in an increase to any BBSW rateset due to the volume of Bank Bills sold relative to demand for those Bank Bills;
- (b) the closing yield for the 3 month BBSW rateset was 4.835% on 29 September 2011 and 4.86% on 30 September 2011;
- (c) Group Treasury did not issue any Bank Bills with a 3 month tenor on 30 September 2011. While Group Treasury issued \$40 million of Bank Bills with less than 15 days to maturity, this could not have impacted the 3 month BBSW rateset on 30 September 2011 as Bank Bills with less than one month to maturity are not considered when determining the 3 month BBSW rateset. To be considered for the 3 month BBSW rateset, the Bank Bills issued would have been required to have a maturity of approximately 90 calendar days;
- (d) the Trading Desk sold Bank Bills with a 3 month tenor into the market on 30 September 2011. This is stock the Trading Desk must have held prior to

30 September 2011 as they could only sell Bank Bills on 30 September 2011 if they were purchased prior to that date. The sale of the Bank Bills did not cause the yield on Bank Bills to materially increase on 30 September 2011 because the Trading Desk sold these Bank Bills at an average yield which was close to the BBSW rateset itself (they were sold at 4.9177% compared to the 3 month BBSW rateset of 4.9217%). If ANZ's trading activity did not cause the yield to materially increase, then there must have been some other activity external to ANZ which caused an increase to the 3 month BBSW rateset on 30 September 2011. For example, it is possible that either:

- i. other banks sold Bank Bills between the closing yield for the 3 month BBSW rateset of 4.835% on 29 September 2011 and the rate at which ANZ was selling Bank Bills of ~4.92%; or
 - ii. there was weak buying interest for Bank Bills on 30 September 2011 and there was little or no demand between the yields of 4.835% and 4.92%;
- (e) ANZ incurred a loss on 30 September 2011 by selling the Bank Bills at the average yield of 4.9177% as these were valued at 4.835% based on the 29 September 2011 closing yield for the 3 month BBSW rateset. For Bank Bills, an increase in yield reduces the price or market value (and vice versa);
- (f) at a total bank level, ANZ did not profit from the rateset on 30 September 2011. The Trading Data shows that ANZ actually incurred a loss of ~\$131,000. This can be summarised as follows:
- i. the Trading Desk had a net profit of \$24,000 (this amount is not material). This was a \$416,000 profit on the 3 month BBSW rateset (notional was \$2.7 billion) which was mostly offset by a \$393,000 loss on the sale of the Bank Bills. I have determined these amounts using a sensitivity calculation, which is based on a value of approximately \$25.00 per \$1 million of notional exposure. For example, the dollar value per basis point (commonly referred to as **DV01** or delta) on \$2.7 billion is \$67,500 (being 2,700 million multiplied by \$25.00). These calculations are shown in 'Exhibit DLT-1' and are based on the DV01 multiplied by the rate movements. The rate movements are calculated as follows:
 - 1. for the rateset exposure, this is the difference between the 3 month BBSW rateset yield and the closing yield for the 3 month BBSW rateset on 30 September 2011; and

2. for the Bank Bills sold, this is the difference between the closing yield on 29 September 2011 (which is where they were marked for books and records prior to 30 September 2011) and the yield at which these Bank Bills were sold; and
 - ii. the Balance Sheet desk within Global Markets (the **Balance Sheet Desk**), which included the Mismatch Desk, and was managed by Etienne, had a revaluation gain of \$617,000. The reason why this revaluation gain was larger than for the Trading Desk is that this desk had a larger rateset exposure. The majority of this was an internal gain with the Australia Division's mortgage portfolio on the other side of that transaction. This internal value which transferred between the Balance Sheet Desk and the Australia Division was due to a transfer pricing method which used the 3 month BBSW rateset as a reference point. The primary beneficiary of the higher 3 month BBSW rateset on 30 September 2011 was Etienne's Balance Sheet Desk with the higher cost of funds incurred by the Australia Division's mortgage portfolio.
17. In paragraph 140 of the Applicant's Affidavit, Etienne says that he understood that "ANZ would benefit from the rate being set higher as ANZ had a rate set exposure to 3-month BBSW in excess of \$5 billion dollars". As outlined above, ANZ did not benefit as against the external market from the 3 month BBSW rateset on 30 September 2011. Only the Balance Sheet Desk, which reported to Etienne at the time, benefited from the 3 month BBSW rateset on that day as a result of the internal transfer pricing between the Mismatch Desk and the Australia Division's mortgage portfolio.
18. In paragraph 141 of the Applicant's Affidavit, Etienne says that the "approximate profit which accrued to ANZ from this 3-month rate set was at least \$1,375,000 based on the observed mid-point of 4.81 on 29 September 2011 and the eventual rate setting of 4.92 and the approximate 3-month rate set exposure in excess of \$5 billion". This analysis appears to be based on a DV01 of \$125,000 (5,000 million multiplied by \$25.00) multiplied by a rate movement of 11 basis points. Etienne's analysis does not consider:
 - i. the loss recorded on 30 September 2011 on the sale of the Bank Bills (which I refer to at paragraph 16(f) above);
 - ii. the applicable closing yield for the 3 month BBSW rateset, being the rate on 30 September 2011 of 4.86%, as opposed to the rate on 29 September 2011 of 4.81%; or

- iii. that the majority of the gain/loss at the individual portfolio level was internal only as between Etienne’s own desk and the Australia Division’s mortgage portfolio.

Conduct of ANZ employees on or around 30 September 2011

[19] underlined words: Admitted subject to a limitation under EA, s 136 as evidence only of Mr Tarraran’s belief or understanding, not as evidence of the truth of the facts about which that belief or understanding is expressed

19. In paragraphs 132 – 135 of the Applicant’s Affidavit, Etienne comments on the conduct of two former ANZ employees, Jason Pritchard and Mark Budrewicz, on or around 30 September 2011 and expresses a view about the propriety of this conduct. Both Jason Pritchard and Mark Budrewicz were members of Etienne’s team in September 2011 and he had a responsibility as their supervisor to discuss any concerns he had with his staff directly in the moment as it occurred.

20. In paragraph 147 of the Applicant’s Affidavit, Etienne says that he came to the conclusion that, “by the conduct of Paul Woodward’s trading in the rate set window on 30 September 2011, ANZ had attempted to manipulate the market in order for ANZ to profit from ANZ’s BBSW Rate Set Exposure”. Based on my analysis of the Trading Data, which I have described in this affidavit, I disagree with Etienne’s statement. The Trading Data indicates that ANZ incurred a net loss on the sale of Bank Bills on 30 September 2011. The only desk within ANZ that achieved a net benefit from trades on 30 September 2011 was the Mismatch Desk and this was a result of the internal transfer pricing between Etienne’s own desk and the Australia Division’s mortgage portfolio. The Trading Data does not show whether it was Paul Woodward who made trades on 30 September 2011, or the specific time on 30 September 2011 at which any trades were made on behalf of ANZ.

Affirmed by the deponent)
 at Melbourne)
 in Victoria)
 on 17 November 2023)
 Before me:)

 Signature of deponent

Signature of witness

Name of witness: James David Wintle Sutherland
 Qualification of witness: An Australian Legal Practitioner within the meaning of the *Legal Profession Uniform Law* (Victoria)

This document was affirmed via audio-visual link. An electronic copy of this document and not the original has been used when completing the jurat requirements under section 27(1) of the *Oaths and Affirmations Act 2018* (Vic).

The requirements for witnessing by audio-visual link under section 12 of the *Electronic Transactions (Victoria) Act 2000* (Vic) have been met.