

EXPRESS POST



Hall & Wilcox
Lawyers

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The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Our Ref: JWD BJH BEN159-82707

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Ben Hamilton
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Dear General Manager

Notification of exclusive dealing-Bendigo and Adelaide Bank Limited

We act for Bendigo and Adelaide Bank Limited.

We enclose a notification of exclusive dealing made by Bendigo and Adelaide Bank Limited pursuant to section 93 (1) of the *Competition and Consumer Act 2010* (Cth).

We also enclose a cheque for \$1,000, being the prescribed fee for lodgement of the notification.

Please contact James Deady or Ben Hamilton with any queries.

Yours faithfully

Hall & Wilcox





Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010* (Cth), of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

1. Applicant

(a) Name of person giving notice:

N95783 Bendigo and Adelaide Bank Limited ACN 068 049 178.

(b) Short description of business carried on by that person:

Bendigo and Adelaide Bank Limited (**the Bank**) is an Australian financial institution which holds a banking licence under the *Banking Act 1959* (Cth).

The Bank provides a range of banking and financial services including retail banking, mortgage distribution, business lending, margin lending, business banking and commercial finance, funds management, superannuation, treasury and foreign exchange services.

(c) Address in Australia for service of documents on that person:

Ben Hamilton
Partner, Hall & Wilcox Lawyers
Level 30, 600 Bourke Street
Melbourne, Victoria, 3000

2. Notified arrangement

(a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

This notice relates to:

- ◆ self managed superannuation fund administration services provided by the Bank to its customers; and
- ◆ financial products and services associated with self managed superannuation funds including insurance services, share broking services, term deposit services, trust deed services, investment management services and loan products (**Related Products or Services**).

(b) Description of the conduct or proposed conduct:

The Bank intends to offer self managed superannuation fund administration services to its customers.

As part of the self managed superannuation fund administration services provided by the Bank to its customers, the Bank will make available an online portal (**Online Portal**).

The Bank intends to provide customers with the ability to use the Online Portal to (amongst other things) check account balances and manage account details.

Further, customers may, via the Online Portal, also undertake transactions in respect of the relevant self managed superannuation fund account for Related Products or Services directly with one or more third party providers of Related Products or Services nominated by the Bank (**Linked Providers**).

It is also proposed that Customers will be able to elect to receive additional reporting benefits from the Bank via the Online Portal (**the Additional Benefits**), in particular the ability to access reports and other similar information from the Bank regarding transactions conducted by the customer directly with Linked Providers.

Customers will only be able to receive the Additional Benefits from the Bank if they also receive Related Products or Services from one or more of the Linked Providers.

This arrangement may also involve the Bank no longer providing the Additional Benefits to a customer who no longer receives Related Products or Services from a nominated Linked Provider.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

(a) Class or classes of persons to which the conduct relates:

Customers or prospective customers of the Bank who acquire, or wish to acquire, self managed superannuation fund administration services from the Bank via the Online Portal and who also wish to receive the Additional Benefits from the Bank.

The Bank anticipates that these customers will include trustees and members of self managed superannuation funds as well as the financial advisers and accountants of such trustees or members.

The notified conduct will also affect the Linked Providers.

(b) Number of those persons:

(i) At present time:

Linked Providers-Four

Customers- Zero

(ii) Estimated within the next year:

The number of customers is expected to be approximately 250

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Customers-Not applicable

Linked Providers

AMP Limited of Level 24, AMP Building, 33 Alfred Street, Sydney, NSW, 2000
(Clearing Account)

Third Party Platform Pty Limited trading as 'Desktop Broker' of GPO Box 1630,
Sydney, NSW, 2001 (Online share trading)

Australian MoneyMarket Pty Limited of Level 18, 344 Queen St, Brisbane, QLD
4000 (Term deposit management)

TAL Limited of 80 Alfred Street, Milsons Point, NSW, 2061 (risk insurance)

4. Public benefit claims

(a) Arguments in support of notification:

(i) *Efficiencies*

The notified arrangement should increase efficiencies as it will allow Bank customers who have elected to acquire the Related Products or Services from a Linked Provider to also elect receive the Additional Benefits from the Bank through a single access point (being the Online Portal).

It would be impractical (and potentially impossible) for the Bank to offer the Additional Benefits without nominating the Linked Providers. This is because, to provide the Additional Benefits to the customers, the Bank needs to receive information from the relevant Linked Provider and provide a connection to its website. The Bank can only receive this information from providers who authorise this connectivity. As a result, the Bank needs to nominate the Linked Providers.

(ii) *Competition*

There are a large number of third party providers of Related Products or Services other than the Linked Providers.

Accordingly other self managed superannuation fund administration service providers could readily implement an arrangement similar to the notified arrangement.

Further, a customer is not required to receive the Additional Benefits from the Bank and, therefore, a customer can still receive self managed superannuation fund administration services from the Bank without dealing with Linked Providers.

In addition, there are multiple Linked Providers for a customer to choose from.

(iii) *Additional information*

The notified arrangement allows Bank customers who have elected to acquire Related Products or Services from a Linked Provider to receive additional information and reports from the Bank regarding the Related Products or Services acquired.

It is submitted that there is a clear public benefit in the Bank's customers having access to such additional information and reports, particularly as the transactions relate to superannuation funds.

(b) Facts and evidence relied upon in support of these claims:

Not applicable

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

Markets relating to the provision of self managed superannuation fund administration services.

These markets are highly competitive. In addition, as the Bank has not previously provided self managed superannuation fund administration services, it does not have or expect to acquire any significant share of these markets.

Various markets relating to the Related Products and Services, such as the markets for insurance services, share broking services, trust deed services, loan services, term deposit, investment management services and other investment services.

Each of these markets for the Related Products and Services are generally highly competitive and will be serviced by numerous providers other than the Linked Providers.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

The notified arrangement will not result in any public detriment as:

- ◆ customers of the Bank will not be compelled to acquire Related Products and Services from the Linked Providers. Customers who receive self managed superannuation fund administration services from the Bank will still be able to use third party providers of Related Products or Services other than the Linked Providers. These customers will simply not be able to receive the Additional Benefits from the Bank;
- ◆ the market for self managed superannuation fund administration services and the markets for the Related Products and Services are highly competitive; and
- ◆ neither the Bank nor the Linked Providers have or are likely to have a significant share of the relevant markets.

- (b) Facts and evidence relevant to these detriments:

Not Applicable

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Ben Hamilton
Partner, Hall & Wilcox Lawyers
Level 30, 600 Bourke Street
MELBOURNE, VIC, 3000
Phone (03) 9603 3546

Dated.....23/3/12.....

Signed by/on behalf of the applicant


.....
(Signature)

BEN HAMILTON
.....
(Full Name)

HALL & WILCOX LAWYERS
.....
(Organisation)

PARTNER
.....
(Position in Organisation)

