



Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID567/2019

**J WISBEY & ASSOCIATES PTY LTD (ACN 001 959 851)**

Applicant

**UBS AG (ABN 47 088 129 613)** and others named in the schedule

Respondents

## **ORDER**

**JUDGE:** Justice Beach

**DATE OF ORDER:** 15 August 2025

**WHERE MADE:** Melbourne

### **OTHER MATTERS:**

These orders adopt the defined terms used in the orders made by the Honourable Justice Beach on 7 May 2025 (Initial Orders).

### **THE COURT ORDERS THAT:**

#### *Approval of the settlement*

1. Pursuant to ss 33V and 33ZF of the *Federal Court of Australia Act 1976* (Cth) (Act), the settlement of this proceeding be approved on the terms set out in:
  - (a) the deed of settlement entered into between the parties and executed on 1 May 2025 (Deed), annexed as Annexure 'KN-1' to the affidavit of Kimi Nishimura dated 5 May 2025; and
  - (b) the settlement distribution scheme, annexed as Annexure 'KN-16' to the affidavit of Kimi Nishimura dated 1 August 2025 (Settlement Distribution Scheme).
2. Pursuant to s 33ZF of the Act, the Court authorises the Applicant nunc pro tunc to enter into and give effect to the Deed and the transactions contemplated therein for and on



behalf of Group Members (being those persons who meet the definition of “Group Member” in paragraph 1 of the Amended Statement of Claim dated 19 November 2021 and who did not file an opt-out notice in accordance with the orders made on 5 April 2024).

3. Pursuant to ss 33ZB and 33ZF of the Act, the persons affected and bound by these orders and the settlement of the proceeding be the Applicant, the Respondents, and Group Members.

*Registered Group Members, Late Registrants and Bot Registrants*

4. The persons referred to at paragraphs 296 and 300 of the affidavit of Kimi Nishimura dated 1 August 2025 are to be treated as Registered Group Members for the purposes of the Settlement Distribution Scheme.
5. The Bot Registrants referred to in paragraph 302 of the affidavit referred to in order 4 are to be considered invalid registrations and are not to be treated as Registered Group Members for the purposes of the Settlement Distribution Scheme.
6. Pursuant to ss 33ZB and 33ZF of the Act, any Group Member who is not a Registered Group Member will remain a Group Member for all purposes of this proceeding but shall not be permitted to seek any benefit pursuant to the settlement approved by this Court.

*Appointment of Administrator*

7. Pursuant to ss 33V(2) and 33ZF of the Act, Maurice Blackburn Lawyers be appointed administrator of the Settlement Distribution Scheme (Administrator) and is to act in accordance with the rules of the Settlement Distribution Scheme and is to have the powers and immunities conferred by the Settlement Distribution Scheme, subject to any direction of the Court.
8. The Administrator has liberty to apply in relation to any matter arising under the Settlement Distribution Scheme including for the purposes of seeking orders consequential to or in connection with the Deed and/or the Settlement Distribution Scheme.



*Approval of amounts to be deducted pursuant to the Settlement Distribution Scheme*

9. Pursuant to ss 33ZF and 33V of the Act, and for the purposes of the Settlement Distribution Scheme, the following distributions from the settlement sum be approved:
- (a) the amount of \$30,870,338.61 (including GST) in respect of the Applicant's legal costs and disbursements incurred in connection with the conduct of the proceeding on its own behalf and on behalf of all Group Members, including the costs of obtaining settlement approval;
  - (b) the amount of \$3,047,800 in respect of the ATE Insurance Costs;
  - (c) up to the amount of \$380,043.32 (including GST) to be paid to the Administrator in accordance with clause 11.3(a), 13.1(a) and 13.5(a) of the Settlement Distribution Scheme for the costs and disbursements incurred by the Administrator in connection with the administration of the Settlement Distribution Scheme; and
  - (d) the amount of \$74,850.28 to be paid to the Applicant as reimbursement for its time and expenses incurred in acting as representative party in this proceeding.

*Confidentiality*

10. Pursuant to ss 37AF and 37AG(1)(a) of the Act and until further order, to prevent prejudice to the proper administration of justice within the meaning of s 37AG(1)(a) of the Act, the material contained in:
- (a) Part 1 of Schedule A to these orders is confidential and not to be published or disclosed without the prior leave of the Court to any person or entity other than the Court, the Applicant and the Applicant's legal representatives; and
  - (b) Part 2 of Schedule A to these orders is confidential and not to be published or disclosed without the prior leave of the Court to any person or entity other than the Court, the Applicant, the Respondents and the parties' legal representatives.



*Other orders*

11. Within 30 days of the completion of the administration of the Settlement Distribution Scheme, the Administrator shall apply to the Court for orders dismissing the proceeding with no order as to costs and vacating all costs orders in the proceeding.
12. Such further or other orders as the Court deems fit.

Date orders authenticated: 15 August 2025

*Sia Lagos*  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



**SCHEDULE A – Confidential until further order**

**Part 1 – Applicant Confidential Material**

Item	Paragraph(s)	Part claimed
<b>Affidavit of Kimi Nishimura dated 1 August 2025</b>		
1.	Table of contents (TOC), Line 3	The words following “Annexure “KN-2”, being a copy of”.
2.	TOC, Line 11	The words following “Annexure “KN-10”, being a copy of”.
3.	TOC, Line 27	The words between “correspondence exchanged with” and “between 14 June 2024”.
4.	12(e)	The whole of the subparagraph.
5.	64	The numerical figures in subparagraphs (a) and (b) and the percentage figure in the last sentence.
6.	69	The words following “paragraphs 129 to 130 of this affidavit.”
7.	77	The second sentence and the percentage figure in the last sentence.
8.	78	The percentage figure and the words between “estimated participation rate” and “in the <i>In Re Forex</i> proceeding”.
9.	79	The words between “deterred some group members, including” and “from registering to participate in this proceeding”.
10.	95	The whole of the paragraph except for the first sentence.
11.	101(a)	The whole of the subparagraph.
12.	102 – 134	The whole of the paragraphs, including subheadings.
13.	136	The first sentence.
14.	138(b)	The second and last sentences of the subparagraph.
15.	139 – 143	The whole of the paragraphs.
16.	145	The whole of the paragraph.
17.	146(a)	The dollar figures.
18.	149 – 153	The whole of the paragraphs.
19.	155	The whole of the paragraph.
20.	161 – 162	The whole of the paragraphs.
21.	164 – 165	The whole of the paragraphs.
22.	167 – 169	The whole of the paragraphs, excluding subparagraphs 169(a) to (c).
23.	171	The last sentence.
24.	176 – 178	The whole of the paragraphs.
25.	179(c)	The words between “noting” and “that the estimated participation rate”.



26.	180	The whole of the paragraph.
27.	183	The whole of the paragraph except for the first sentence and the text "I consider certain discounts to the registered Qualifying Trade amount to be reasonable having regard to:".
28.	184 – 211	The whole of the paragraphs, including the subheadings and table.
29.	214 – 217	The whole of the paragraphs, including the subheadings and tables.
30.	236 – 237	The whole of the paragraphs.
31.	243 – 246	The whole of the paragraphs, including the table.
32.	264	The whole of the paragraph.
33.	271	The whole of the paragraph.
34.	273	The whole of the paragraph.
35.	277	The whole of the paragraph.
36.	279	The whole of the paragraph.
37.	281	The whole of subparagraphs (a), (c) and (d).
38.	299 – 300	All references to the name of the individual.
39.	Schedule 2	The whole of Schedule 2.
<b>Annexures to Affidavit of Kimi Nishimura dated 1 August 2025</b>		
40.	KN-2	Whole
41.	KN-5	Whole
42.	KN-6	Whole
43.	KN-10	Whole
44.	KN-16	The whole of paragraphs 3.2 to 3.6 of the Confidential Loss Assessment Methodology, including the table (on pages 37 to 39 of KN-16).
45.	KN-17	Whole
46.	KN-18	Whole
47.	KN-20	Whole
48.	KN-21	Whole
49.	KN-22	Whole
50.	KN-23	Whole
51.	KN-26	Whole
<b>Applicant's submissions on settlement approval dated 1 August 2025</b>		
52.	20	The words following "These discounts are in relation to".
53.	27 – 29	All references to the identities of the group members and representatives.
54.	47	The whole of the paragraph.



**Part 2 – Without Prejudice Material and Otherwise Confidential Material**

Item	Paragraph(s)	Part claimed
<b>Affidavit of Kimi Nishimura dated 1 August 2025</b>		
55.	77	The dollar figure in the first sentence and the last sentence.
56.	154	The whole of the paragraph.
57.	156 – 160	The whole of the paragraphs.
58.	163	The whole of the paragraph, including the formula.
59.	166	The whole of the paragraph.
60.	170	The whole of the paragraph.
61.	171	The whole of the paragraph, including the table, excluding the last sentence.
62.	172 – 175	The whole of the paragraphs, including the tables.
63.	179	The whole of the paragraph, including the footnote.
64.	181 – 182	The whole of the paragraphs, including the footnotes.
65.	183	The first sentence.
66.	296	The second column of the table titled 'Late Registrant'.
67.	308	All references to the identities of the group members and representatives.
<b>Annexures to Affidavit of Kimi Nishimura dated 1 August 2025</b>		
68.	KN-9	Whole



## **Schedule**

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Second Respondent	BARCLAYS BANK PLC (01026167)
Third Respondent	CITIBANK N.A. (ABN 34 072 814 058)
Fourth Respondent	JPMORGAN CHASE BANK N.A. (ABN 43 074 112 011)
Fifth Respondent	NATWEST MARKETS PLC (SC090312)