

Article Information

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ASIC appealing Westpac subsidiaries 'personal advice' Federal Court decision

An appeal has been filed against the decision regarding Westpac subsidiaries, Westpac Securities Administration Limited (WSAL) and BT Funds Management Limited (BT Funds).

ASIC has filed an appeal with the Federal Court against the decision regarding Westpac subsidiaries, Westpac Securities Administration Limited (**WSAL**) and BT Funds Management Limited (**BT Funds**).^[1]

In December last year, the Federal Court found WSAL and BT Funds breached section 912(1)(a) of the Corporations Act, but that ASIC did not prove 'personal advice' was provided to 15 customers.^[2] ASIC alleged that during two telephone campaigns in 2014, WSAL and BT Funds provided personal financial advice to customers in recommending they roll out of their other superannuation funds into the Westpac-related superannuation accounts, without holding an authorisation to provide personal financial advice on their AFS licenses.^[3]

This case was a 'test case', with the court considering the distinction between 'general' and 'personal' advice for the first time.^[4] ASIC's appeal in relation to personal advice reflects its desire to obtain greater clarity and certainty regarding the difference between the two types of advice for consumers and financial services providers.^[5]

The appeal is likely to further clarify the distinction between 'general' and 'personal' advice.

^[1] ASIC, '19-033MR SAIC to appeal Westpac subsidiaries Federal Court decision', media release, 18 February 2019, <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-033mr-asic-to-appeal-westpac-subsi-diaries-federal-court-decision/>.

^[2] Ibid.

^[3] Ibid.

^[4] Ibid.

^[5] Ibid.