

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
GROUP PROCEEDINGS LIST**



No. S ECI 2021

Case: S ECI 2021 04738

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B E T W E E N

PAUL LEIGHTON MUMFORD

First Plaintiff

-and-

GAYLE MUMFORD

Second
Plaintiff

-and-

EML PAYMENTS LTD

Defendant

FURTHER AMENDED STATEMENT OF CLAIM

Filed pursuant to Order 9 of the orders made by the Honourable Justice Nichols on
20 February 2025.

Date of Document: 24 February 2025

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A PRELIMINARY

A.1 The Plaintiffs and Group Members

1. This proceeding is commenced as a representative proceeding pursuant to Part 4A of the *Supreme Court Act 1986* (Vic) by the plaintiffs on their behalf and on behalf of other persons who or which:

(a) acquired an interest in ordinary shares in the defendant (**EML Shares**) during the periods between:

(i) 19 December 2020 to 19 May 2021 (**First Relevant Period**); and/or

(ii) 18 August 2021 to 25 July 2022 (**Second Relevant Period**),

(Relevant Periods);

(b) suffered loss or damage by reason of the conduct of the defendant (**EML**); and

(c) were not during the Relevant Periods, and are not as at the date of this Further Amended Statement of Claim, any of the following:

(i) a related party (as defined in s 228 of the *Corporations Act 2001* (Cth) (**Corporations Act**)) of EML;

(ii) a related body corporate (as defined in s 50 of the *Corporations Act*) of EML;

(iii) an associated entity (as defined by s 50AAA of the *Corporations Act*) of EML;

(iv) an officer or close associate (as defined by s 9 of the *Corporations Act*) of EML;

(v) a Judge or the Chief Justice of the Supreme Court of Victoria or a Justice or the Chief Justice of the High Court of Australia,

(Group Members).

2. The plaintiffs acquired an interest in EML Shares during the First Relevant Period.

PARTICULARS

<i>Date</i>	<i>Number of Shares</i>	<i>Price per Share</i>	<i>Cost (including brokerage and GST)</i>
12 May 2021	10,150	5.39	\$54,860.66

3. Immediately prior to the commencement of this proceeding, the group, on whose behalf this proceeding is brought, comprised more than seven persons.

A.2 The Defendant

4. EML is and at all material times was:

- (a) a company registered pursuant to the Corporations Act and capable of being sued;
- (b) a person within the meaning of s 1041H of the Corporations Act;
- (c) a person within the meaning of s 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**);
- (d) a person within the meaning of s 18 of the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as applicable pursuant to:
 - (i) s 12 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic);
 - (ii) s 28 of the *Fair Trading Act 1987* (NSW);
 - (iii) s 16 of the *Fair Trading Act 1989* (Qld);
 - (iv) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);
 - (v) s 19 of the *Fair Trading Act 2010* (WA);
 - (vi) s 14 of the *Fair Trading Act 1987* (SA);
 - (vii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT); and/or
 - (viii) s 27 of the *Consumer Affairs and Fair Trading Act* (NT),
 (individually or together, **ACL**).

5. EML was:

- (a) at all material times included in the official list of the financial market operated by the Australian Securities Exchange (**ASX**);
- (b) at all material times an entity, the securities of which are ED securities for the purposes of s 111AE of the Corporations Act;
- (c) at all material times a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;
- (d) at all material times subject to and bound by the Listing Rules of the ASX (**ASX Listing Rules**);
- (e) at all material times:
 - (i) from the start of the First Relevant Period until 22 March 2021, obliged by ss 111AP(1) and/or 674(1) of the Corporations Act and/or ASX Listing Rule 3.1 and Corporations (Coronavirus Economic Response) Determination (No 2) and (No 4) to immediately tell the ASX information that is not generally available (unless the exceptions in ASX Listing Rule 3.1A applied) that:
 - (A) it is, or becomes, aware of, that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
 - (B) it knew or was reckless or negligent with respect to whether it would have a material effect on the price or value of EML Shares;
 - (ii) from 23 March 2021 until the end of the First Relevant Period), obliged by ss 111AP(1) and/or 674(1) of the Corporations Act and/or ASX Listing Rule 3.1 to immediately tell the ASX information that is not generally available (unless the exceptions in ASX Listing Rule 3.1A applied) that it is, or becomes, aware of, that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
 - (iii) in the Second Relevant Period, obliged by ss 111AP(1) and/or 674A(1) of the Corporations Act and/or ASX Listing Rule 3.1 to immediately tell the ASX information that is not generally available (unless the exceptions in ASX Listing Rule 3.1A applied) that:
 - (A) it is, or becomes, aware of, that a reasonable person would expect to have a material effect on the price or value of EML Shares; and

(B) it knew or was reckless or negligent with respect to whether it would have a material effect on the price or value of EML Shares,

((i), (ii) and (iii) being **Continuous Disclosure Obligations**).

6. At all material times, EML was prohibited pursuant to:

- (a) section 1041H of the Corporations Act and s 12DA of the ASIC Act, from engaging in conduct in relation to EML Shares (being a financial product within the meaning of the Corporations Act and ASIC Act); and
- (b) section 18 of the Australian Consumer Law, from engaging in conduct in trade or commerce,

that was misleading or deceptive or likely to mislead or deceive.

B EML'S BUSINESS

B.1 Relevant EML committees and personnel

Audit and Risk Committee

7. During the Relevant Periods, EML had an audit and risk committee (**Audit & Risk Committee**) which:

- (a) was established by, and reported to, EML's board of directors;
- (b) had authority to seek any information it required from executive management or employees of EML and its wholly owned subsidiaries;
- (c) was authorised to take such independent professional advice as it considered necessary;
- (d) was authorised to obtain any independent legal or other professional advice that it considered necessary;
- (e) had the authority to remove or appoint an internal or external auditor without endorsement of EML's board of directors in extenuating circumstances; and
- (f) had the overall role of assisting EML's board of directors to discharge their responsibilities to exercise due care, diligence and skill in relation to legal and regulatory compliance.

Directors and officers of EML

8. Tom Cregan (**Cregan**) was from 27 August 2012 to 11 July 2022:
 - (a) a director of EML;
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules; and
 - (c) the Managing Director and Group Chief Executive Officer of EML.
9. David Liddy (**Liddy**) was at all material times:
 - (a) from 27 April 2012, a director of EML;
 - (b) from 27 April 2012, an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules; and
 - (c) from 10 August 2012 to 20 April 2021 and from 11 July 2022 to 22 February 2023, a member of the Audit & Risk Committee.
10. Melanie Wilson (**Wilson**) was at all material times from 20 February 2018:
 - (a) a director of EML;
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules; and
 - (c) a member of the Audit & Risk Committee.
11. Tony Adcock (**Adcock**) was at all material times:
 - (a) from 21 November 2011, a director of EML;
 - (b) from 21 November 2011, an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules; and
 - (c) from 9 August 2017, the Chair of the Audit & Risk Committee.
12. George Gresham (**Gresham**) was at all material times from 18 May 2020 to 29 July 2021:
 - (a) a director of EML;
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules; and

- (c) a member of the Audit & Risk Committee.
13. Paul Wenk (**Wenk**) was at all material times:
- (a) from July 2018, EML's Group General Counsel;
 - (b) from November 2018 to 30 June 2021, EML's company secretary (jointly with Sonya Tissera-Isaacs (**Tissera-Isaacs**) from 26 November 2019 to 30 June 2021); and
 - (c) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
14. Tissera-Isaacs:
- (a) at all material times from 26 November 2019, EML's Head of Corporate Governance;
 - (b) from 26 November 2019 to 29 June 2021, EML's joint company secretary with Wenk; and
 - (c) at all material times from 29 June 2021, EML's company secretary; and
 - (d) at all material times from 26 November 2019, an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
15. Rob Shore (**Shore**) was at all material times from November 2018:
- (a) EML's Group Chief Financial Officer; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
16. Andrew Betts (**Betts**) was:
- (a) at all material times from July 2013, EML's Group Chief Risk and Compliance Officer;
 - (b) from 27 February 2021 to 15 June 2021, an interim director of PFS Card Services (Ireland) Limited (**PCSIL**);
 - (c) at all material times from July 2013, an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules; or

- (d) in the alternative to (c) above, at all material times during the Relevant Periods, an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
17. Noel Moran (**Moran**) was:
- (a) at all material times from in or about March 2009 until in or about March 2021 the Chief Executive Officer of Prepaid Financial Services;
 - (b) from on or about 4 April 2019 to in or about March 2021, the Chief Executive Officer and Chairman of PCSIL; and
 - (c) at all material times from 31 March 2020 until in or about March 2021 an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
18. Lee Britton (**Britton**) was:
- (a) at all material times to 26 February 2021, the Chief Compliance Officer for Prepaid Financial Services Limited;
 - (b) from 26 February 2021, alternatively 1 April 2021, to 3 August 2021, the Chief Executive Officer of PCSIL;
 - (c) from about 1 March 2021 to 3 August 2021, the Chief Executive Officer of EML Europe; and
 - (d) from 1 April 2021 to 3 August 2021, an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
19. Nikki Evans (**Evans**) was:
- (a) from 31 March 2020 to 26 February 2021 and at all material times from on or about 1 August 2021 the Chief Executive Officer of EML Europe, Middle East and Africa;
 - (b) at all material times from 3 August 2021, the CEO of PCSIL; and
 - (c) from 31 March 2020 to 26 February 2021 and at all material times from on or about 1 August 2021 an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.

20. Emma Shand (**Shand**) was at all material times from 11 July 2022:
 - (a) the Chief Executive Officer and Managing Director of EML; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
21. David Curneen (**Curneen**) was at all material times from in or about October 2021:
 - (a) the Group Chief Operating Officer of EML; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
22. Jonathon Gatt (**Gatt**) was at all material times from in or about February 2022:
 - (a) the Chief Financial Officer, Europe of EML; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
23. Noel Gaughran (**Gaughran**) was at all material times from on or about 7 March 2022:
 - (a) the General Counsel, Europe of EML; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
24. Jennie Power (**Power**) was at all material times from on or about 21 March 2022;
 - (a) the European Compliance & Regulatory Director of EML; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
25. Marco Nuvoloni (**Nuvoloni**) was at all material times from on or about 7 April 2022:
 - (a) the interim Head of Compliance of PCSIL; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.

26. Juan Rio Salvador (**Salvador**) was at all material times from on or about 6 September 2021;
- (a) the Head of Risk, Europe of EML; and
 - (b) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
27. Stefan Gadiot (**Gadiot**) was at all material times from on or about 25 September 2020 to on or about 1 April 2022:
- (a) the Chief Risk Officer of PCSIL;
 - (b) the Director of Risk and Compliance of PCSIL; and
 - (c) an officer of EML within the meaning of s 9 of the Corporations Act and r 19.12 of the ASX Listing Rules.
28. By reason of the matters pleaded in paragraphs 8 to 27 above any information of which any or all of:
- (a) Cregan;
 - (b) Liddy;
 - (c) Wilson;
 - (d) Adcock;
 - (e) Gresham;
 - (f) Wenk;
 - (g) Tissera-Isaacs;
 - (h) Shore;
 - (i) Betts;
 - (j) Moran;
 - (k) Britton;
 - (l) Evans;

- (m) Shand;
- (n) Curneen;
- (o) Gatt;
- (p) Gaughran;
- (q) Power;
- (r) Nuvoloni;
- (s) Salvador; and
- (t) Gadiot,

(EML Officers),

became aware, or which ought reasonably to have come into his or her possession in the course of the performance of his or her respective duties as an officer of EML (including, in the case of Moran and Britton, information concerning Prepaid Financial Services (Ireland) Limited (**PFS**), Prepaid Financial Services Limited (**PFS UK**) and/or PCSIL of which they were aware prior to the acquisition of PFS by EML), was information of which EML was aware (as aware is defined within the meaning of r 19.12 of the ASX Listing Rules).

B.2 EML and its acquisition of PFS

29. At all material times, EML carried on business providing payment card technology solutions.
30. At all material times, PFS and its subsidiaries carried on business providing white label payments and Banking-as-a-Service technology in support of the FinTech sector.
31. On or about 11 November 2019, EML entered into a binding agreement to acquire PFS (and its subsidiaries) for an upfront enterprise value of £226 million (or A\$423 million) plus an earn-out component of up to £55 million (or A\$103 million).
32. Prior to 31 March 2020, EML renegotiated the terms on which it would purchase PFS including by reducing the upfront enterprise value by £94.5 million from £226 million to £131.5 million (or A\$252.3 million).
33. On or about 31 March 2020, EML completed its acquisition of PFS on the renegotiated terms.

34. The strategic rationale for EML's acquisition of PFS included:
- (a) that the combined group was expected to become one of the largest FinTech enablers in open banking and prepaid globally;
 - (b) the combined group would have less concentration on the Gift & Incentive segment (which would make up less than 40% of pro forma group revenues);
 - (c) the acquisition of PFS would transition EML into a company in which the majority of revenues were generated by General Purpose Reloadable (**GPR**) products;
 - (d) the addition of PFS's digital banking and multi-currency offerings and the ability to cross-sell them into EML's global market footprint would broaden EML's solution suite; and
 - (e) the acquisition would bring scale to EML's European operations, enabling greater operating leverage which would allow the business to ride out uncertain times in markets when they move back into growth mode.

PARTICULARS

- i. ASX Announcement of 31 March 2020: "EML to Acquire Prepaid Financial Services (Ireland) Limited – Renegotiated Terms".*

35. Prior to the completion of EML's acquisition of PFS, pro forma combined financial statements prepared by EML indicated that if the acquisition of PFS had been completed on 1 July 2018, a significant proportion of EML's global consolidated net revenue and global consolidated EBITDA would have been derived from PFS in 2019 and 2020. On and from the completion of EML's acquisition of PFS, a significant proportion of EML's global consolidated net revenue and global consolidated EBITDA was derived from PFS.

PARTICULARS

- i. On a pro forma basis, PFS would have contributed approximately 40% of EML's net revenue and 36% of EML's EBITDA in 2019 and 2020: Investor Presentation, 11 November 2019, Slide 25.*
- ii. PFS contributed \$78.3 million to EML's revenue of \$113.5 million for FY21: Investor Presentation, 17 August 2021, Slide 8.*

B.3 Regulation of PFS

36. On or about 20 December 2018, PCSIL submitted an application to the Central Bank of Ireland (**CBI**) for authorisation as an Electronic Money Institute (**EMI**) for the purposes of

the *European Communities (Electronic Money) Regulations 2011 (EM Regulations)* (**PCSIL's EMI Application**).

37. The primary purpose of PCSIL's EMI Application was for PFS to have an EMI authorisation to operate its e-money and payment services business in the European Economic Area after 19 December 2020 when the United Kingdom left the European Union.
38. The PCSIL EMI Application was required to include amongst other things a forecast budget calculation for the first three years post-authorisation.
39. The PCSIL EMI Application:
 - (a) included amongst other things a forecast budget with revenue of:
 - (i) €13,847,853 in the first year post authorisation; and
 - (ii) €37,421,924 in the second year post authorisation;
 - (b) stated that within 18 months of authorisation PCSIL as an EMI would process approximately 4,693,383 transactions quarterly at a value of approximately €352,003,630.14.
40. At all material times prior to 19 December 2020, PFS primarily conducted its business in the European Economic Area and in the UK through a wholly owned subsidiary, PFS UK, which was regulated by the Financial Conduct Authority.
41. At all material times prior to 19 December 2020, PFS UK operated a branch in Ireland which was regulated by the CBI.
42. At all material times after 19 December 2020, PFS primarily conducted its business in the European Economic Area through a wholly owned subsidiary, PCSIL, which was regulated by the CBI.
43. At all material times after 4 April 2019, PCSIL operated under an authorisation granted by CBI for PCSIL to conduct business as an EMI for the purposes of the EM Regulations (**CBI Authorisation**).

PARTICULARS

- i. PCSIL's application to CBI to operate as an EMI under the EM Regulations, which was granted on 4 April 2019, projected that by 18 months post authorisation, PCSIL would be executing approximately 4.7 million payment transactions per quarter, valued at €350 million: First 13 May CBI Letter, p.7.*

44. At all material times during the Relevant Periods, the CBI Authorisation imposed various conditions on PCSIL's operations as an EMI, including among others, a condition to notify the CBI in advance of any proposed material change in PCSIL's business model (**Material Business Model Variation**).

PARTICULARS

i. Paragraph 43 above is repeated.

45. At all material times during the Relevant Period, a Material Business Model Variation included, among other matters, a material increase in transaction volume activity in excess of the transaction volume disclosed in PCSIL's application to the CBI to operate as an EMI.
46. At all material times after 19 December 2020, PFS UK and PCSIL were, in practice, managed as one business, operated in the same manner by the same personnel, and had the same anti-money laundering and counter terrorism financing (**AML/CTF**) risk and control frameworks.
47. At all material times after 4 April 2019, PCSIL was obliged to discharge various statutory obligations under the *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (Ireland) (**CJA 2010**).

PARTICULARS

i. Among other CJA 2010 provisions, ss. 30A, 30B, 33, 35, 37, 36A and 42.

48. At all material times after 4 April 2019, PCSIL was obliged to act in a way consistent with the conditions of the CBI Authorisation imposed under the EM Regulations.

PARTICULARS

i. Among others, regulations 8(1)(e), 11(3), 26(1) of the EM Regulations.

49. At all material times after 4 April 2019, PCSIL was obliged to act in a way consistent with the s 23 of the *Central Bank Reform Act 2010* (Ireland) (**Central Bank Reform Act**).
50. At all material times after 4 April 2019, PCSIL was subject to the exercise of powers by the CBI under the *Central Bank (Supervision and Enforcement) Act 2013* (Ireland) (**Central Bank Act**).
51. At all material times after 4 April 2019, the CBI could give PCSIL a written direction to:
- (a) suspend, for a period specified in the direction not exceeding 12 months, any one or more of the following:

- (i) the provision of any financial service, or description of financial service, specified in the direction;
 - (ii) the making of payments or any such payments or description of such payments specified in the direction;
 - (iii) the acquisition or disposal of any assets or liabilities, or description of assets or liabilities, specified in the direction;
 - (iv) entering into transactions or agreements, or description of transaction or agreements, specified in the direction, or entering into them except in specified circumstances or to a specified extent;
 - (v) soliciting business from persons of a class specified in the direction;
 - (vi) carrying on business in a manner specified in the direction or otherwise than in a manner so specified;
- (b) dispose of, on terms specified in the direction, assets or liabilities so specified, or a part or parts of its business so specified, within such period as may be so specified;
 - (c) raise and maintain such capital or other financial resource as may be specified in the direction;
 - (d) make such modifications to its systems and controls as may be specified in the direction;
 - (e) make such modifications to its business practices and dealings with third parties as may be specified in the direction,

(CBI Written Direction).

PARTICULARS

i. Central Bank Act, ss 45(1), (3).

52. CBI could make and issue a CBI Written Direction to PCSIL if CBI was satisfied:

- (a) that it was in the interests of the proper and effective regulation of financial services providers; and
- (b) of one or more of the following:
 - (i) PCSIL has become or is likely to become unable to meet its obligations to creditors or its customers;

- (ii) PCSIL is not maintaining or was unlikely to be in a position to maintain adequate capital or other financial resources having regard to the volume and nature of its business;
- (iii) PCSIL is failing to comply with or is likely to fail to comply with any condition or requirement imposed by, or by virtue of, financial services legislation;
- (iv) PCSIL is conducting business in such a manner as to jeopardise or prejudice:
 - (A) monies, securities or other investment instruments or other property held by or controlled by it on behalf of customers; or
 - (B) the rights and interests of customers;
- (v) there may be grounds for revoking or not renewing PCSIL's authorisation,

(Conditions for a CBI Written Direction).

PARTICULARS

- i. Central Bank Act, ss 45(1), (2).*

B.4 ML/TF Risks

53. PFS' business posed significant money laundering and terrorism financing (**ML/TF**) risks.

PARTICULARS

- i. The reason PFS was at a significant risk from an ML/TF perspective included that:

 - a. certain electronic money products can be used to move funds easily and anonymously;*
 - b. the increased usage of non-cash payments;*
 - c. the global acceptance of card/online/digital payments;*
 - d. the fact that online electronic money accounts can often have no limitations on the monetary sum placed, withdrawn or transferred; and*
 - e. the geographic reach of some electronic money institutions and the fact that the majority of electronic money products are distributed through non-face-to face means, which can make this sector attractive to money launderers and for terrorist financing purposes.**
- ii. Australian Financial Review, 'EML's prepaid cards pose 'significant money-laundering risk', 20 May 2021.*

C WHAT EML SAID PRIOR TO 21 MAY 2021

54. At all material times, materials and information published by EML to the ASX were available to the market of investors and potential investors in EML Shares (**Affected Market**).

C.1 19 August 2020

55. On 19 August 2020, EML published to the ASX a document entitled “Appendix 4G: Key to Disclosures: Corporate Governance Council Principles and Recommendations” (**2020 Corporate Governance Statement**).
56. The EML Board approved the 2020 Corporate Governance Statement and its publication to the ASX.
57. 2020 Corporate Governance Statement contained the following statements:

*EML’s approach to corporate governance goes beyond compliance. Our Board of Directors (**Board**) and all levels of management are fully committed to achieving the highest standards of corporate governance and business conduct (pg. 2).*

...

We regularly review our governance practices in light of both current and emerging corporate governance developments of relevance to EML, to reflect market practice, expectations and regulation as appropriate (pg. 2).

...

Our governance framework includes: ... Robust systems of risk management and assurance... (pg. 3).

The Board has established an Audit & Risk Committee...

The purpose of the [Audit & Risk] Committee is to oversee financial risk management and internal controls across EML. Responsibilities include:

...

- Internal controls: to confirm the effectiveness of EML’s internal controls;

...

- *Risk: oversee and assess the effectiveness of EML's Risk Management Framework; and*
- *Review and monitor EML's compliance with legal and regulatory obligations, internal policies and industry standards.*

The Audit & Risk Committee meets as often as required in accordance with its Charter. Following each meeting, the ARC reports to the Board on any matter that should be brought to the Board's attention and on any recommendation of the ARC that requires Board approval (pg. 12).

The purpose of the [Audit & Risk] Committee is to oversee financial risk management and internal controls across EML and to assess the effectiveness of EML's Risk and Compliance management framework. Risk related responsibilities include:

- *Oversee and assess the effectiveness of EML's risk management framework, and to make recommendations in respect of the development of embedding of the risk management framework and appetite of the Board with detailed oversight of financial risk;*
- *Assist the Board with the monitoring and review of EML's risk culture;*
- *Review and approve policies and initiatives that ensure best practise risk management, reflect stakeholder expectations and influence EML's reputation as a responsible organisation; and*
- *Review and monitor EML's compliance with legal and regulatory obligations, internal policies and industry standards.*

*EML has established a Risk Management Framework (**Framework**) and regularly reviews the soundness and effectiveness of that Framework. The Framework is designed to identify and manage risk on an ongoing basis. The Board sets the risk appetite for the Group, oversees the Framework and satisfies itself that the Framework is sound by reviewing reports received and asking questions when necessary to satisfy itself as questions arise. It is the responsibility of management to design and implement that Framework and to ensure that the Group operates within the risk appetite set by the Board (pg. 15).*

...

*The Group Chief Risk Officer (**Group CRO**) provides ongoing reports to the Audit & Risk Committee, as well as bi-annual assessments of the adequacy and effectiveness of the Company's control processes and risk management procedures. Any internal audit reviews that are undertaken are done so in coordination with the Audit & Risk Committee, with external audit assistance provided if needed.*

The role of the Group CRO is to:

- coordinate the implementation of the risk management processes, risk profile and risk mitigation strategies;*
- facilitate, challenge and drive risk management and risk mitigation strategies in the Group;*
- review the sufficiency and effectiveness of the internal control framework;*
- review systems and operations and the adequacy of controls; and*
- report to Senior Management and the Audit & Risk Committee at regular intervals on the risk management process, risk mitigation strategies, material business risks and internal control framework (pg. 16).*

58. On 19 August 2020, EML published to the ASX its Appendix 4E and Annual Report for the financial year ended 30 June 2020 (**2020 Appendix 4E and Annual Report**).
59. In the 2020 Appendix 4E and Annual Report, EML stated:
- (a) in FY20, EML had generated \$32.5M in EBITDA from revenues of \$121.6M, driven by gross debit volumes (**GDV**) of \$13.9 billion, a 54% increase on the prior corresponding period;
 - (b) EML's GPR segment grew by 54.3% to \$4.2 billion in FY20, driven by strong organic growth from salary packaging programs, resiliency in gaming and disbursement programs and the acquisition of PFS (which contributed \$1.25 billion in the last quarter);
 - (c) EML had implemented a new strategy to drive growth in the next three years called "Project Accelerator", and had a clear intent of transitioning to a company deriving the majority of its revenues from GPR products, and the acquisition of PFS was clearly aligned to that strategy;

- (d) EML's strong governance and compliance are demonstrated by EML's commitment to having simplified, harmonised and accessible group policies, which had been reviewed and revised to reflect changes in the employment landscape and relevant legislation and to demonstrate EML's values;
- (e) EML operated in a number of regulated markets and was subject to regulatory reviews and inquiries, which from time to time may result in litigation, fines or other regulatory enforcement actions;
- (f) EML had recognised provisions for matters where an economic out flow of resources as a result of events occurring prior to the reporting date is probable and can be reliably measured utilising information known as at the reporting date; and
- (g) Note B9 to the Financial Statements recorded a provision of \$3,585M in relation to costs arising from the UK Payment Service Regulator investigation into anti-competitive conduct in relation to a minor part of the PFS business prior to its acquisition by EML.

PARTICULARS

- i. As to paragraphs 59(a) to (c) above, 2020 Appendix 4E and Annual Report (Covering ASX announcement (pp.1-3)).*
- ii. As to paragraphs 59(d) to (f) above, 2020 Appendix 4E and Annual Report (Annual Report), pp.23 and 125.*
- iii. As to paragraph 59(g) above, 2020 Appendix 4E and Annual Report (Annual Report), pg. 88.*

C.2 30 October 2020

- 60. On 30 October 2020, EML held its Annual General Meeting, at which Cregan gave a presentation titled 'Annual General Meeting Presentations' (the transcript and slides of which were published to the ASX (**2020 AGM Presentation**)).
- 61. In the 2020 AGM Presentation, EML stated:
 - (a) in FY20, EML had generated \$32.5M in EBITDA from revenues of \$121.6M, driven by GDV of almost \$14 billion;
 - (b) EML's debit volumes would grow into the future, as would its revenues;
 - (c) EML had experienced \$10M in 1QFY21 EBITDA (compared to \$3.2M in the prior corresponding period (1QFY20)), with GDV up 51% on the prior corresponding period;

- (d) having suspended guidance in May 2020, EML would re-commence giving guidance in February 2021 with the release of its 1H21 results (though it was aware of the broker consensus of mid \$40M to mid \$60M); and
- (e) EML operated in a heavily regulated industry and was responsible for moving and reconciling billions of dollars a month, so systems, infrastructure and regulatory and compliance were barriers to competitor entry, and parts of EML's business under the surface without which you've got no business being in this business.

PARTICULARS

i. 2020 AGM Presentation; CEO Address

C.3 17 February 2021

- 62. On 17 February 2021, EML published to the ASX an announcement entitled "EML Announces Record Revenues of \$95.3M and EBITDA of \$28.1M" (**1H21 Interim Results Announcement**).
- 63. In the 1H21 Interim Results Announcement, EML stated:
 - (a) in 1H21, EML achieved group revenue of \$95.3M, group EBITDA of \$28.1M, group NPATA of \$13.2M, and group GDV of \$10.2 billion;
 - (b) GPR revenue represented 57% of group revenue in 1H21, demonstrating the extent of the group's pivot to deriving a majority of revenues from the GPR segment, of which PFS generated \$38M in revenue;
 - (c) the record EBITDA result demonstrated that EML had transitioned away from a company reliant on seasonal mall gift cards to a broader business where it generated the majority of revenues from the GPR segment; and
 - (d) EML was reinstating an FY21 guidance range of revenue of \$180M-\$190M (+48-56% on FY20), EBITDA of \$50M to \$54M (+54-66% on FY20) and NPATA of \$30M to \$33.5M (+25-40% on FY20).

D KEY EVENTS

D.1 PCSIL's growth in business beyond what was notified to CBI

- 64. By the end of the first quarter of the financial year ended 30 June 2021 (**1QFY21**), that is by 30 September 2020, PCSIL had significantly increased the number and value of payment transactions that it had notified the CBI of in PCSIL's EMI Application.

PARTICULARS

- i. *PCSIL's application to CBI to operate as an electronic money institution under the EM Regulations, which was granted on 4 April 2019, projected that by 18 months post authorisation, PCSIL would be executing approximately 4.7 million payment transactions per quarter, valued at €350 million: First 13 May CBI Letter, p.7*
- ii. *PCSIL's regulatory return for the first quarter of the financial year ended 30 June 2021 recorded that PCSIL had executed approximately 11 million payment transactions valued at €1.2 billion: First 13 May CBI Letter, p.7.*

65. The matters pleaded in paragraph 64 exceeded the transaction volume in PCSIL's application to the CBI to be an EMI and was a Material Business Model Variation which PCSIL was obliged to but had not sought authorisation from CBI for any such variation in its transaction volume operating.

PARTICULARS

- i. *The particulars to paragraphs 43 and 64 are repeated.*

D.2 23 September 2020 CBI Report

66. On 23 September 2020, the CBI provided a report to PFS arising from an inspection which took place on or about 24 October 2019 of PFS' AML/CTF compliance (**23 September 2020 Report**).

67. The 23 September 2020 Report stated amongst other things:

- (a) PFS had not carried out, and appeared to have never carried out, AML/CTF risk assessments on a regular periodic basis;
- (b) the CBI considered that there were deficiencies in PFS' AML/CTF policies and procedures;
- (c) the CBI was not satisfied that PFS' customer due diligence was adequate; and
- (d) the CBI was not satisfied that PFS' suspicious transaction reporting function was adequate.

D.3 22 October 2020 CBI Email

68. On or about 22 October 2020, the CBI wrote to Gadiot, Moran and Betts (**22 October 2020 Email**).

69. The 22 October 2020 Email stated:

- (a) that the CBI expected that all authorised EMI's were to be appropriately governed and that directors and persons responsible for management of EMIs possessed appropriate skills, knowledge and experience;
- (b) PCSIL had not filled various a pre-approval control led functions (**PCF**) roles;
- (c) PCSIL had no independent non-executive director appointed;
- (d) PCSIL's proposal to appoint Moran as Chair of PCSIL's board was a significant deviation from established corporate governance best practice; and
- (e) PCSIL was required to provide a clear timeframe in which it proposed to regularise the identified corporate governance deficiencies.

D.4 19 December 2020 CBI Letter

70. On or about 19 December 2020, PFS and/or EML received a letter from CBI (**19 December 2020 CBI Letter**).
71. From mid-December 2020 to May 2021, PCSIL had increased interactions with CBI covering a range of regulatory and compliance issues including governance and internal controls.

PARTICULARS

- i. EML's "Response to ASX Aware Query" dated 25 May 2021.*
- ii. Paragraphs 72 to 91 below are repeated.*

D.5 8 January 2021 report on PFS UK

72. On or about 8 January 2021, CBI provided a report to Moran on PFS UK (**8 January 2021 Report**).
73. The 8 January 2021 Report:
- (a) identified non-compliance and deficiencies with PFS UK's AML/CTF risk and control frameworks; and
 - (b) proposed that PFS UK take certain actions to remedy the non-compliance and deficiencies with its AML/CTF risk and control frameworks.

D.6 8 January 2021 inspection of PCSIL

74. On or about 8 January 2021, CBI sent a letter to Moran (**8 January 2021 Letter**).

75. The 8 January 2021 Letter stated that CBI intended to conduct an AML/CTF and EU Financial Sanctions inspection of PCSIL.
76. During the period from 8 January 2021 to on or about 1 May 2021, CBI conducted an AML/CTF and EU Financial Sanctions inspection of PCSIL.
77. As part of the AML/CTF and EU Financial Sanctions inspection of PCSIL, during the period from on or about 8 January 2021 to on or about 1 May 2021, representatives of CBI:
- (a) attended telephone and/or videoconferences with representatives of PCSIL; and
 - (b) requested documents and/or information from representatives of PCSIL.

PARTICULARS

- i. An email from Gadiot to Betts dated 12 April 2021 (EML.0012.0006.5369).*
78. On or about 8 April 2021, at one of the meetings referred to in paragraph 77, representatives of the CBI identified deficiencies with PCSIL's AML/CTF frameworks and controls to representatives of PCSIL (**8 April 2021 Meeting**).

PARTICULARS

- i. The CBI identified at least the following deficiencies in PCSIL's AML/CTF Frameworks during the 8 April 2021 Meeting:*
 - a. the Board Minutes supplied by PCSIL for the PCSIL AML/CTF and Sanctions Inspection disclosed;*
 - b. there was no or limited evidence of any review of AML/CTF compliance by the Board of PCSIL;*
 - c. there were no agendas for the Board of PCSIL;*
 - d. there was no ongoing due diligence of PCSIL customers;*
 - e. there was an over-reliance on customers and/or distributors performing their own due diligence;*
 - f. there was no oversight of KYC and KYB checks being undertaken by distributors and sub-distributors;*
 - g. there was no effective PEP and financial sanctions screening;*
 - h. the PCF-15 role was vacant and PCSIL had failed find an appropriately qualified person to fill the role over a long period of time;*
 - i. that there was a "complete lack of process and procedures" for PCSIL; and*
- ii. During the 8 April 2021 Meeting, the CBI informed PCSIL that it was considering a regulatory fine for the deficiencies it had identified.*

- iii. *The plaintiffs refer to an email from Gadiot to Betts dated 12 April 2021: EML.0001.0018.5997.*

D.7 CBI gives written notice of concerns (7 to 13 May 2021)

79. On or about 7 May 2021, alternatively, 8 May 2021 representatives of CBI sent a letter to Gadiot, Britton and Betts (**7 May 2021 Letter**).
80. The 7 May 2021 Letter:
- (a) stated that PCSIL's activity levels far exceeded what was projected in the firm's application for authorisation which CBI considered to be a material change of PCSIL's business model which PCSIL was required to notify CBI of in advance, as a condition of the CBI Authorisation;
 - (b) stated that CBI had a number of significant concerns regarding PCSIL's current and proposed governance arrangements, particularly in the context of the volume, extent and variety of activities PCSIL was conducting;
 - (c) set out CBI's concerns regarding PCSIL's governance, internal controls and risk management arrangements, including:
 - (i) that on and from 28 April 2021, PCSIL's board had one director, being Britton, who was based in the United Kingdom, not Ireland, and that the CBI considered that PCSIL did not have a functioning board as a result;
 - (ii) that PCSIL had made interim appointments of Betts, with oversight from Shore, in relation to the performance PCF at PCSIL, such interim appointments were, in the opinion of CBI, not compliant with PCSIL's obligations under s 23 of the *Central Bank Reform Act 2010*, which prohibited PCF appointments without CBI authorisation;
 - (iii) inadequate regulatory functions within the jurisdiction;
 - (iv) the absence of a head office function within the jurisdiction, which was a requirement of EM Regulations; and
 - (v) personnel occupying key dual roles, which was inconsistent with PCSIL's application for the CBI Authorisation;

- (d) stated that PCSIL was required to undertake immediate remedial action in respect of the concerns outlined by CBI, and such action was to be implemented by the board and senior management of PCSIL to address CBI's concerns;
 - (e) required that a copy of the 7 May 2021 letter be brought to the immediate attention of EML given the serious nature of the matters identified; and
 - (f) set out a risk mitigation program that CBI expected PCSIL to address in the context of a series of governance, internal control and risk management issues which CBI identified.
81. On or about 11 May 2021, representatives of CBI sent a letter to Britton dated 10 May 2021 (**10 May 2021 Letter**).
82. The 10 May 2021 Letter:
- (a) referred to the 7 May 2021 Letter;
 - (b) stated that CBI was of the view that the current governance and internal control arrangements were not sufficiently effective to deliver PCSIL's business in a manner consistent with its legislative and regulatory obligations;
 - (c) requested the information set out in Section A of the letter in the form specified in Section B of the letter;
 - (d) stated that the 10 May 2021 Letter should be brought to the immediate attention of EML given the serious nature of the matters identified.
83. On or about 12 May 2021, representatives of CBI sent an email to Britton, Betts and Gadiot (**12 May 2021 Email**).
84. The 12 May 2021 Email sought a meeting between CBI and senior personnel from PCSIL and EML on 13 May 2021 at 9:30AM (Irish time) / 6:30pm (Brisbane time) to set out significant concerns which CBI had in relation to PCSIL's compliance with financial services legislation and the CBI Authorisation, particularly with regard to PCSIL's AML/CTF controls, governance arrangements and compliance with the EM Regulations.
85. At approximately 10:00pm on Thursday 13 May 2021 (Australian Eastern Standard Time (**AEST**)), a teleconference was attended by representatives of CBI, PCSIL and EML including Betts, Britton, Bennett, Gadiot, Brendan O'Kelly (EML Legal Counsel), and Cathal Smyth (PCSIL Legal Counsel) (**13 May 2021 Teleconference**).

PARTICULARS

i. EML's "Response to ASX Aware Query" dated 25 May 2021.

86. During the 13 May 2021 Teleconference, representatives of CBI:
- (a) raised significant regulatory concerns regarding PCSIL's AML/CTF risk and control frameworks and governance; and
 - (b) stated that CBI was minded to issue PCSIL with a CBI Written Direction.

PARTICULARS

- i. EML's announcement to the ASX entitled "Central Bank of Ireland correspondence" dated 19 May 2021.*
- ii. EML's "Response to ASX Aware Query" dated 25 May 2021.*

87. At approximately 11:12pm on Thursday 13 May 2021 (AEST), representatives of PCSIL and EML including Britton, Gadiot and Betts received a letter from CBI (**First 13 May 2021 Letter**).

PARTICULARS

i. EML's "Response to ASX Aware Query" dated 25 May 2021.

88. The First 13 May 2021 Letter:
- (a) stated that the purpose of the letter was to advise PCSIL of the significant concerns CBI had in relation to PCSIL and the directions CBI was minded to impose as a result of these significant concerns;
 - (b) stated that the level of CBI's concerns were at such a degree of severity that CBI [was] minded to exercise its direction making powers to materially restrict PCSIL's business;
 - (c) stated that the seriousness of the issues identified by CBI, including AML/CTF and governance failures, required urgent intervention by CBI in the interests of the proper and effective regulation of financial service providers and in order to protect consumers;
 - (d) stated that CBI's concerns included but were not limited to:
 - (i) material failings in PCSIL's AML/CTF control framework such that PCSIL had not complied with its AML/CTF obligations and the CBI suspected that PCSIL had breached and/or continued to materially breach key requirements of the CJA 2010;

- (ii) as a consequence of the high risk nature of PCSIL's business and PCSIL's weak AML/CTF control framework, CBI had strong suspicions that PCSIL's products/services were potentially being utilised by criminals to undertake money laundering and/or terrorist financing activities; and
 - (iii) PCSIL had grown its business volumes materially faster than outlined in its application for authorisation, however PCSIL's current and proposed governance arrangements, particularly in the context of the volume, extent and variety of activities it conducted, fell materially below that required for an authorised firm, especially one operating in an industry that is high risk from an ML/TF perspective;
- (e) set out at length and in detail suspected breaches of the CJA 2010, EM Regulations and the Central Bank Reform Act by PCSIL and significant concerns held by CBI, including, among other matters:
 - (i) that 40% of files reviewed to assess PCSIL's Customer Risk Assessment Process disclosed red flag indicators of ML/TF activity and/or risk, which led to CBI submitting a report to the Irish policing authorities as the CBI was required to do under s 63(4) of the CJA 2010;
 - (ii) that PCSIL did not have the necessary frameworks or resources in place to assess risk alerts generated by its own systems, which resulted in a significant number of transactions with heightened ML/TF risk not being actioned; and
 - (iii) PCSIL's systems generated 27,980 ML/TF alerts as at January 2021, but only 3% of those alerts were reviewed by PCSIL;
- (f) enclosed Appendix 1 which set out breaches suspected by CBI and set out CBI's significant concerns;
- (g) enclosed a report entitled 'Appendix 2' addressed to Gadiot (**13 May 2021 Report**), which was a preliminary observation report detailing the most material deficiencies identified in CBI's AML/CTF inspection of PCSIL;
- (h) set out the directions that the CBI was minded to make to PCSIL being:
 - (i) PCSIL, including any distributors acting for PCSIL in the distribution and redemption of electronic money, not issue any further electronic money on behalf of PCSIL;

- (ii) PCSIL not permit additional funds to be placed on payment accounts maintained by PCSIL on behalf of new or existing customers;
 - (iii) PCSIL not appoint any further distributors to act on its behalf for the distribution and redemption of electronic money;
 - (iv) PCSIL not transfer any of its current customers and/or distributor appointments to any other person without prior approval from CBI; and
- (i) stated that CBI was of the view, subject to any submissions from PCSIL, that it was appropriate to proceed to exercise its powers as outlined.
89. On 13 May 2021, CBI wrote to Britton (**Second 13 May 2021 Letter**).
90. The Second 13 May 2021 Letter:
- (a) referred to the First 13 May 2021 Letter; and
 - (b) requested information and documents set out in Section A (Appendix 1) of the Second 13 May 2021 Letter in the form and manner set out in Section B.
91. The Second 13 May 2021 Letter set out matters relating to CBI's findings of PCSIL's AML/CTF regulatory compliance deficiencies, including that:
- (a) the PCSIL board of directors had failed to actively engage in the management of the identified ML/TF risks faced by PCSIL;
 - (b) PCSIL had failed to clearly define the roles of the board of directors and senior management of PCSIL in relation to the AML/CTF Framework;
 - (c) PCSIL had failed to exercise sufficient oversight of its compliance with its obligations under the CJA 2010;
 - (d) PCSIL's ML/TF Risk assessment methodology did not meet the requirements of the CJA 2010 and was materially inadequate;
 - (e) PCSIL's ML/TF Business Risk Assessment was not a meaningful reflection of the ML/TF risks of PCSIL and did not meet the requirements of the CJA 2010;
 - (f) PCSIL had not met the requirements of ss 30B(1), 33, 35(1), 54(3) and 54(6) CJA 2010;

- (g) PCSIL had failed to keep information and documentation about its customers up to date;
 - (h) PCSIL's PEP/FS screening and onboarding of identified PEPs was materially deficient;
 - (i) PCSIL's transaction monitoring controls, systems and procedures were not fit for purpose and breached s 36A CJA 2010;
 - (j) PCSIL's approach to suspicious transaction reporting was deficient and not compliant with s 42 CJA 2010;
 - (k) PCSIL did not have effective controls to monitor and manage its compliance with its obligations under the CJA 2010; and
 - (l) PCSIL's record keeping policy required enhancement.
92. At approximately 12:37am on Friday 14 May 2021 (AEST), a copy of the First 13 May 2021 CBI Letter was provided to, amongst others, Cregan.

PARTICULARS

- i. EML's "Response to ASX Aware Query" dated 25 May 2021.*

93. On Saturday 15 May 2021 (AEST), a copy of the First 13 May 2021 CBI Letter was provided to, amongst others, Liddy, Wilson, Adcock and Gresham.

PARTICULARS

- i. EML's "Response to ASX Aware Query" dated 25 May 2021.*

D.8 17 May 2021 Letter

94. On 17 May 2021, the CBI wrote to Britton (**17 May 2021 Letter**).
95. The 17 May 2021 Letter:
- (a) reiterated the CBI's significant concerns including that PCSIL had grown its business volumes materially faster than outlined in its application for authorisation and that PCSIL's current and proposed arrangements, particularly in the context of the volume, extent and variety of activities PCSIL conducted, fell materially below that required for an authorised firm, especially one operating in an industry that is high-risk from a ML/TF perspective;
 - (b) reiterated PCSIL's regulatory obligations;

- (c) identified suspected breaches of PCSIL's regulatory obligations;
- (d) stated that the CBI was not satisfied that PCSIL's governance arrangements were comprehensive or proportionate to the volume of activity currently conducted by PCSIL, which based on the Q1 regulatory returns, was significantly in excess of what was projected in PCSIL's application for authorisation; and
- (e) directed PCSIL pursuant to s 45 of the Central Bank Act to:
 - (i) preserve all data from information technology systems related to business operations and unstructured data relating to governance, controls, anti-money laundering and business operations;
 - (ii) ensure that all such data was retained; and
 - (iii) notify third party service providers of PCSIL's data retention of the directions.

96. On or about 17 May 2021, EML established a subcommittee of the Board in relation to the regulatory issues raised by the CBI (**CBI Subcommittee**).

97. The members of the CBI Subcommittee were Martin, Adcock and Liddy.

98. Meetings of the CBI Subcommittee were attended by Cregan, Shore, Betts, Wenk and Tissera-Isaacs.

D.9 Events following 19 May 2021

99. On 24 May 2021, the CBI informed PCSIL that PCSIL could not notify the CBI of new distributors until it had concluded its investigation.

100. On 27 May 2021, Cregan and Britton responded to the CBI's Second 13 May 2021 Letter (**27 May 2021 Letter**).

101. The 27 May 2021 Letter stated amongst other things that:

- (a) the impact of the CBI's proposed directions would be catastrophic for PCSIL and its employees;
- (b) PCSIL and EML fully appreciated and understood the gravity of the situation;
- (c) PCSIL had already commenced work on the preparation of a detailed draft remediation plan and that it expected it would take approximately six weeks to prepare a detailed plan for discussion with and approval by the CBI;

- (d) EML specifically considered regulatory compliance and related matters as part of its due diligence of the acquisition of the PFS business;
 - (e) during the due diligence EML identified that PFS had incurred fines in other jurisdictions on compliance related matters and that there were ongoing investigations in the UK by the Payment Systems Regulator; and
 - (f) whilst PCSIL had made practical improvements since being acquired on 31 March 2020, with more to come in the coming months, the directions from the CBI made it obvious that PCSIL had fallen short of the CBI's expectations in a number of areas. It was simply unacceptable to EML, and to EML's employees, investors and other stakeholders, that the CBI has been moved to issue a "Minded To" letter and that the CBI's concerns were not adequately addressed and remediation plan not provided to the CBI prior to this.
102. On 9 June 2021, the CBI wrote to Britton and Gadiot amongst others (**9 June 2021 Email**).
103. The 9 June 2021 Email stated that in light of the nature of the ongoing engagement between the CBI and PCSIL and the serious concerns outlined by the CBI to PCSIL, the CBI was of the view that it would not be appropriate for PCSIL to submit new distributor notifications to the CBI and that it was the CBI's expectation that PCSIL should be seeking to address control deficiencies rather than further business expansion.
104. On or about 9 June 2021, PCSIL established a 'Steering Committee' which had oversight and responsibility for the remediation project (**CBI Steer Co**).
105. The members of the CBI Steer Co included Cregan, Wenk, Shore, Betts, Britton, Evans and Gadiot.
106. From 9 June 2021 to the end of the Second Relevant Period, the CBI Steer Co would meet from time to time and dates for completion of various stages for PCSIL's remediation plan previously set were not met, were extended and/or had no due date for completion.

PARTICULARS

- i. EML.0035.0001.9131.*
- ii. On or around 16 June 2021: EML.0035.0002.2264.*
- iii. On or around 28 September 2021: EML.0045.0008.0172.*
- iv. On or around 27 October 2021: EML.0037.0029.4676.*
- v. On or around 10 November 2021: EML.0059.0027.1857.*
- vi. On or around 24 November 2021: EML.0111.0001.0004.*
- vii. On or around 6 December 2021: EML.0098.0170.1579.*

- viii. On or around 16 December 2021: EML.0037.0031.6057.*
- ix. On or around 6 January 2022: EML.0044.0018.4463.*
- x. On or around 20 January 2022: EML.0048.0003.5436.*
- xi. On or around 3 March 2022: EML.0064.0050.2563.*
- xii. On or around 12 April 2022: EML.0035.0015.7259.*
- xiii. On or around 26 April 2022: EML.0035.0015.9342.*

107. On 30 June 2021, the CBI wrote to Britton (**30 June 2021 Letter**).

108. The 30 June 2021 Letter stated amongst other things that:

- (a) it would not be prudent for PCSIL to appoint additional distributors at this time given the CBI's expectation that PCSIL's focus should be on the development and implementation of a remediation plan rather than on materially growing its business; and
- (b) it remained open to PCSIL to submit new distributor notifications and any such notifications would be considered by the CBI but in assessing any such notifications the CBI will take into account the overall context, including the CBI's concerns regarding PCSIL.

109. On 5 July 2021, the CBI wrote to Britton (**5 July 2021 Letter**).

110. The 5 July 2021 Letter:

- (a) referred to PCSIL's proposed remediation plan;
- (b) stated that PCSIL's apparent lack of understanding of how to appropriately assess its ML/TF risk is consistent with the CBI's finding in the Second 13 May 2021 Letter that PCSIL's identification and management of ML/TF risk is not appropriately focused on its actual risk exposure arising from the sector in which it operated and its business model;
- (c) stated that the absence of an appropriate assessment of PCSIL's inherent risk profile meant that PCSIL could not design and implement a robust AML/CTF framework that was effective in mitigating its ML/TF risks;
- (d) stated that the CBI expected the proposed remediation plan to be underpinned by an appropriate risk management assessment that focused on the ML/TF risk inherent in PCSIL's business model and the sector in which it operated;

- (e) stated that having regard to the deficiencies identified in PCSIL, it seemed likely that any remediation plan, in order to achieve an acceptable level of remediation, would require a considerable implementation period;
- (f) stated that the CBI was of the view that PCSIL should not seek to materially grow its business until it had achieved an acceptable level of remediation and that its resources, attentions and efforts would need to be focused on the implementation and oversight of the remediation plan;
- (g) stated that the CBI expected PCSIL to outline in its proposed remediation plan how it would ensure that the business would not grow materially until the CBI was satisfied that any agreed remediation plan had been implemented effectively and that consequently the necessary risk management and governance frameworks were in place to effectively manage material growth in PCSIL;
- (h) stated that it remained open to PCSIL to submit new distributor notifications and that such notifications would be considered by the CBI but in assessing any such notifications the CBI would take into account the overall context, including the CBI's concerns regarding PCSIL, and the CBI's view that PCSIL should not materially grow its business pending implementation of a remediation plan; and
- (i) stated that the CBI expected PCSIL to ensure as a matter of priority that transaction limits were set at levels that could assist in the reduction of ML/TF risk exposure and the generation of appropriate triggers, and that the CBI was not satisfied that PCSIL's transaction limits could adequately achieve this, and that the CBI expected PCSIL to undertake, as a priority item, a review of its current card limits across all programmes with a view to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation was achieved.

D.10 9 July 2021 Letter and Final POR

111. On 9 July 2021, the CBI wrote to Britton (**9 July 2021 Letter**).

112. The 9 July 2021 Letter:

- (a) stated that the CBI was still considering the information provided by PCSIL in the 27 May 2021 Letter;
- (b) stated that a conclusion had not yet been reached as to what further steps may be required but that the CBI's concerns remained, and it remained the CBI's view that the circumstances in s 45(2)(c), (d) and (e) of the 2013 Central Bank Act existed

and that directions may be required in the interests of the proper and effective regulation of financial service providers;

- (c) stated that without prejudice to that position (in (b) above) that the CBI was open to engagement with PCSIL as to how the issues identified could potentially be addressed by way of a comprehensive remediation plan;
- (d) enclosed a document entitled "Preliminary Observation Report" (**Final POR**); and
- (e) invited PCSIL:
 - (i) to make submissions in respect of the factual accuracy of the preliminary observations in the Final POR by 23 July 2021;
 - (ii) indicate whether PCSIL accepted the proposed findings (or if not, why not), outline how each of the findings which required actions would be addressed (or if not, why not), and the timeline for doing so; and
 - (iii) to draw to the CBI's attention whether any of the required actions were included in the remediation plan.

113. The Final POR:

- (a) contained the following findings:
 - (i) PCSIL's board of directors had failed to actively engage in PCSIL's management of the identified ML/TF risks;
 - (ii) the roles of the board and senior management in relation to the AML/CTF control framework were not clearly defined;
 - (iii) PCSIL's senior management had not exercised sufficient oversight of PCSIL's compliance with its obligations under the CJA 2010;
 - (iv) PCSIL had provided inaccurate or misleading information to the CBI with regards to its ML/TF risk and AML/CTF control framework in the course of its application for authorisation;
 - (v) PCSIL had failed to apply the agreed remedial actions arising from the inspection of PFS UK to its control framework;
 - (vi) PCSIL failed to ensure that sufficient resources were allocated to the implementation and oversight of its AML/CTF control framework;

- (vii) PCSIL did not have adequate separation of activity between group entities;
- (viii) PCSIL's ML/TF business risk assessment methodology was materially inadequate and did not meet the requirements of the CJA 2010;
- (ix) PCSIL's ML/TF business risk assessment was not a meaningful reflection of PCSIL's ML/TF risks and did not meet the requirements of the CJA 2010;
- (x) PCSIL's ML/TF business risk assessment was not a meaningful assessment of the inherent ML/TF risks in relation to geographic risk;
- (xi) PCSIL's AML/CTF policies and procedures did not meet the requirements of s 54(3) of the CJA 2010;
- (xii) PCSIL had failed to implement adequate measures to comply with the requirements of s 30B(1) of the CJA 2010;
- (xiii) PCSIL had failed to satisfy the requirements of s 33 of the CJA 2010;
- (xiv) PCSIL had failed to satisfy the requirements of s 35(1) of the CJA 2010;
- (xv) PCSIL had failed to keep information and documentation in relation to customers up to date;
- (xvi) PCSIL had failed to implement measures to comply with the requirements of s 33A of the CJA 2010;
- (xvii) PCSIL had failed to implement adequate measures to comply with the requirements of s 34A of the CJA 2010;
- (xviii) PCSIL's use of innovative solutions for performance of customer due diligence was not done in a manner that was compliant with its legislative obligations or the guidance issued;
- (xix) PCSIL's approach with regards to politically exposed persons and financial sanctions screening and onboarding of politically exposed persons was materially deficient;
- (xx) PCSIL's approach to the onboarding of politically exposed persons was materially deficient and in some respects breached s 37 of the CJA 2010;
- (xxi) PCSIL's transaction monitoring controls, systems and procedures were not fit for purpose and breached s 36A of the CJA 2010;

- (xxii) PCSIL's practices with respect to suspicious transaction reporting were deficient and not in compliance with s 42 of the CJA 2010;
 - (xxiii) PCSIL did not have effective controls to monitor and manage its compliance with obligations under the CJA 2010;
 - (xxiv) PCSIL was in breach of its obligation under s 54(6) of the CJA 2010;
 - (xxv) PCSIL's record keeping policy and practices required enhancement;
 - (xxvi) PCSIL had not demonstrated due consideration of the application of the funds transfer regulations to its business and its compliance with the same;
 - (xxviii) PCSIL's approach with regards to outsourced service providers was materially deficient and presented an unacceptable level of risk;
 - (xxiv) PCSIL had not demonstrated a consistent position regarding the reliance on third parties to carry out customer due diligence on its behalf within the meaning of s 40 of the CJA 2020; and
- (b) proposed actions to address those findings.

D.11 Events following 9 July 2021 up to 17 August 2021 ASX Announcement

114. On 15 July 2021, PCSIL first provided the CBI with a copy of the then current draft of the remediation plan.
115. On or about 20 July 2021, the CBI provided Britton with a copy of a draft report prepared by Ernst & Young for the CBI (**Draft EY Report**).
116. The Draft EY Report contained findings including that:
- (a) a consistent finding across the workstreams was that the governance structures and processes at PCSIL were not at a level expected for a regulated business of their nature;
 - (b) PCSIL's board and committee structures were not in place leading to a gap in formal documented governance processes;
 - (c) policy and process documentation which are the foundation on which risk management processes are based were not always readily available, were still being produced and/or had not been through board approval;

- (d) management reporting on programmes, which were essential for the ongoing review of the operations of the business, were not readily available; and
 - (e) tri-partite agreements have not always been in place where distributors have partnered with a sub-distributor and operated a subprogram.
117. On 21 July 2021, Britton wrote to the CBI (**21 July 2021 Letter**).
118. The 21 July 2021 Letter stated amongst other things that PCSIL would set out in the remediation plan the metrics PCSIL proposed to use to quantify material growth and how growth would be limited.
119. On 23 July 2021, Britton wrote to the CBI (**23 July 2021 Letter**).
120. In the 23 July 2021 Letter, PCSIL:
- (a) acknowledged and/or did not dispute many of the findings in the Final POR;
 - (b) undertook to address many of the actions proposed by the CBI; and
 - (c) stated that it aimed to complete all of the remediation actions it proposed by 30 June 2022.
121. On 30 July 2021, the CBI sent an email to Britton, copied to Betts and Gadiot, amongst others (**30 July 2021 Email**).
122. The 30 July 2021 Email stated that PCSIL's proposals regarding proposed interim measures as set out in PCSIL's letters of 16 and 23 July 2021 did not contain critical information regarding how PCSIL proposed to manage material growth, and that a number of key items were scheduled to be finalised following a board meeting.
123. On 12 August 2021, Evans sent an email to the CBI copying Gadiot amongst others (**12 August 2021 Email**).
124. The 12 August 2021 Email attached for discussion:
- (a) a policy to monitor material growth during the interim period;
 - (b) interim procedure for new programme risk assessments; and
 - (c) a budget for PCSIL for FY22.
125. On 16 August 2021, the CBI wrote to Evans copied to Gadiot amongst others (**16 August 2021 Email**).

126. The 16 August 2021 Email stated amongst other things:

- (a) PCSIL must review its proposals to ensure that they were consistent with the CBI's expectations;
- (b) the CBI required a material growth metric in the interim period so as to ensure that the significant ML/TF risk to which PCSIL was exposed was contained until such time as an effective and appropriate AML/CTF control framework was in place to manage those risks. In this regard the CBI required PCSIL to clarify how it concluded that 30% growth in average payment value over the period did not constitute material growth;
- (c) based on discussions at our meeting and the increased activity levels outlined in PCSIL's quarter 2 regulatory return, it appeared likely that the tolerances (rather than limits) set out in the proposed material growth monitoring policy and procedure would be breached. In this regard the CBI expected that PCSIL had developed a plan of action it would be taking to ensure that the limits were not breached; and
- (d) in its letter of 5 July 2021, the CBI set out its expectation that PCSIL would undertake, as a priority item, a review of current card limits across all programmes, with a view to recalibrating the limits so that they reduced ML/TF risk during the interim period. It requested that PCSIL provide written details of its proposed approach in this recalibration, including an articulation of the rationale for the approach being proposed.

D.12 Events between the 17 August 2021 and 9 October 2021 ASX announcements

127. On 19 August 2021, alternatively, 20 August 2021, Evans wrote to the CBI (**20 August 2021 Letter**).

128. The 20 August 2021 Letter included amongst other things:

- (a) a response to the 16 August 2021 Email; and
- (b) stated amongst other things:
 - (i) that PCSIL's proposed growth limit was significantly lower than PCSIL's expectations of normalised growth (i.e. without limitation) of approximately 90%;

- (ii) the proposed limit of 35% was also significantly lower than the industry growth rate; and
- (iii) plans to ensure that limits are not breached included delayed programme launches and new features, and termination of existing programmes.

129. On 6 October 2021, the CBI wrote to Evans (**6 October 2021 Letter**).

130. The 6 October 2021 Letter stated amongst other things that:

- (a) it was clear from the engagement in relation to the remediation plan that a considerable implementation period would be required to achieve an acceptable level of remediation and ensure that effective governance, risk management and internal control arrangements were in place such that PCSIL's business could be conducted in a safe and compliant manner;
- (b) it was the CBI's expectation that PCSIL would obtain third party assurance with respect to the adequacy and effectiveness of the remediation implemented;
- (c) having considered the interim steps proposed by PCSIL in its letter of 23 July 2021 the CBI was not satisfied that what had been proposed by PCSIL was sufficient to satisfactorily manage and limit the identified risks in the interim period;
- (d) despite significant engagement by the CBI with PCSIL on the interim steps, the CBI's view was that PCSIL's proposals still did not acknowledge or reflect the extent and severity of the current issues with PCSIL;
- (e) the CBI was not satisfied that the proposals put forward by PCSIL regarding measures to limit material growth and review of current card limits across all programmes with a view to recalibrating limits as a matter of priority to reduce ML/TF risk, were sufficient to manage and limit the risks the remediation plan sought to address in the interim period;
- (f) having considered PCSIL's letter dated 19 August 2021 responding to the Final POR, the CBI's observations as outlined in Final POR were, in the main, unchanged and AML/CTF findings were as issued and were enclosed (**Final Findings Report**);
- (g) the CBI suspected that PCSIL was in breach of certain legislative provisions and conditions of authorisation; and

- (h) the CBI was minded to impose a direction on PCSIL pursuant to s 45 of the Central Bank Act to take the following actions for a period of 12 months:
 - (i) PCSIL shall not appoint any distributors without the CBI's prior consent;
 - (ii) PCSIL shall ensure that the total income payment value for the period from 1 November 2021 to 31 October 2022 is not in excess of 10% above the baseline; and
 - (iii) PCSIL shall reduce by 75% the current product limits in place for the value of loading e-money products, the value of SEPA transfers, ATM withdrawals, and the maximum value which can be stored electronically on a card.

D.13 Events between the 9 October 2021 and 25 November 2021 ASX announcements

- 131. On 19 October 2021, Evans wrote to the CBI (**19 October 2021 Letter**).
- 132. The 19 October 2021 Letter responded to the 6 October 2021 Letter and outlined amongst other things the "catastrophic consequences to the business of PCSIL [of the proposed directions], so much so, that we will need to consider an orderly wind down should they be imposed".
- 133. On 28 October 2021, Evans wrote to the CBI (**28 October 2021 Letter**).
- 134. The 28 October 2021 Letter provided PCSIL's response to the 6 October 2021 Letter.
- 135. By 25 November 2021, the CBI had not communicated to PCSIL or EML that broad based reductions in limit controls on programs would not be imposed by the CBI on PCSIL.
- 136. On 23 November 2021, the CBI wrote to Evans (**23 November 2021 Letter**).
- 137. The 23 November 2021 Letter stated:
 - (a) that the CBI was minded to make a direction pursuant to s 45 of the Central Bank Act that:
 - (i) PCSIL must ensure that the total incoming payment value for the period from 1 December 2021 to 30 November 2022 is not in excess of 10% above the baseline;
 - (ii) the direction would be imposed for a period of 12 months but may be lifted in advance of the 12 month period if remediation is completed and it is

independently verified by a third party as having been effectively implemented; and

- (b) based on the information provided by PCSIL regarding the work that is being carried out in relation to limits, including the “Limits Review” and “Recalibration Methodology”, the Central Bank is satisfied to continue to engage with PCSIL with a view to agreeing appropriate limits to be put in place to mitigate the risks arising from the identified deficiencies in the interim period. The CBI expressly reserves the right to consider the issuance of directions in due course if this engagement with PCSIL does not result in the implementation by PCSIL of limits that are calibrated appropriately to reflect the underlying inherent ML/TF risk of program customers and support the overall reduction of ML/TF risks in PCSIL.

PARTICULARS

- i. The 23 November 2021 Letter: EML.0063.0025.4730.*

D.14 Events between the 25 November 2021 and 16 February 2022 ASX announcements

138. On 30 November 2021, Evans wrote to the CBI (**30 November 2021 Letter**).
139. In the 30 November 2021 Letter, PCSIL agreed to stay within the 10% growth limit for total incoming payment value for the period from 1 December 2021 to 30 November 2022.
140. On 9 December 2021, the CBI wrote to Evans (**9 December 2021 Letter**).
141. The 9 December 2021 Letter the CBI directed PCSIL pursuant to s 45 of the Central Bank Act that:
- (a) PCSIL must ensure that the total incoming payment value for the period from 1 December 2021 to 30 November 2022 is not in excess of 10% above the baseline; and
- (b) the direction would be imposed for a period of 12 months but may be lifted in advance of the 12-month period if remediation was completed and independently verified by a third party as having been effectively implemented.
142. On 14 January 2022, the CBI wrote to Evans (**14 January 2022 Letter**).
143. The 14 January 2022 Letter sought further information and clarification in relation to PCSIL’s limits recalibration.
144. On 10 February 2022, a meeting was held between the CBI and PCSIL which was attended by Evans and Cregan amongst others (**10 February 2022 Meeting**).

PARTICULARS

- i. *Email from Evans to Adcock dated 15 February 2022: EML.0063.0049.6711 and the 16 June 2022 Letter: EML.0035.0019.9139.*

145. At the 10 February 2022 Meeting representatives of the CBI stated:

- (a) PCSIL's remediation plan was currently very task focussed and the CBI expected PCSIL to take a holistic approach to resolving the issues identified;
- (b) PCSIL's timelines for remediation appeared overly optimistic, and in some areas lacked credibility;
- (c) that the CBI was concerned around the sequencing of remediation for certain areas including the completion of remediation of various policies and procedures in advance of the ML/TF risk assessment;
- (d) the CBI would not consider any findings closed or remedial actions complete until it had been satisfactorily evidenced to the CBI by a third-party independent review confirm that the remedial actions had been effectively implemented;
- (e) PCSIL should revise its remediation plan to ensure that timelines were credible and took into account the seriousness of the issues identified and the depth of remediation required, and the sequencing that was appropriate; and
- (f) the remediation plan should build in the completion of validation by an independent third-party review which should only commence following a reasonable period in order to allow the third party to test that the controls were embedded and operating effectively.

146. On 15 February 2022, the CBI wrote to Gadiot (**15 February 2022 Letter**).

147. The 15 February 2022 Letter:

- (a) repeated the statements made by representatives of the CBI at the 10 February 2022 Meeting; and
- (b) enclosed a copy of the Final Findings Report which made certain findings in relation to the AML/CTF inspection conducted by the CBI and proposed actions to address those findings.

D.15 Events between the 16 February 2022 and 26 April 2022 ASX announcements

148. On 18 February 2022, Evans wrote to the CBI (**18 February 2022 Letter**).

149. The 18 February 2022 Letter provided further information about PCSIL's limits review programme.
150. On 3 March 2022, the CBI wrote to Evans (**3 March 2022 Letter**).
151. The 3 March 2022 Letter outlined a number of concerns in relation to PCSIL's limits review programme.
152. On 9 April 2022, the CBI wrote to Evans (**9 April 2022 Email**).
153. The 9 April 2022 Email stated amongst other things that:
- (a) the CBI felt it was necessary to once again raise the issue of the timelines and sequencing of actions, which had been highlighted to PCSIL on several occasions previously including the letter dated 6 October 2021, a meeting on 22 October 2021, a meeting held on 10 February 2022 and a letter dated 15 February 2022;
 - (b) the issue with regard to timelines and sequencing of actions was particularly relevant in the context of the ML/TF risk assessment. It is imperative that designated persons complete the assessment of the ML/TF risk which they face prior to developing the controls with such controls then being developed commensurate with the risks identified in order to ensure that the risk based approach was being implemented. The CBI continued to be concerned that PCSIL's remediation plan sequencing sets out the completion of remediation of controls prior to the completion of risk assessment. The CBI was also concerned that under the remediation plan, the risk assessment was also completed in advance of the completion of a thorough review of distributor relationships and review of all customers;
 - (c) PCSIL was requested to submit an amended remediation plan by 12 April 2022 which should contain revised and credible timelines which reflected the need for each of the controls areas to be re-reviewed and remediated following the completion of the risk assessment, which should not be completed until after a comprehensive review of customers and distributors has been concluded; and
 - (d) in addition, the amended remediation plan should incorporate proposed timelines for the independent third-party review which should only be carried out after the remediation controls had been fully rolled out and embedded for a reasonable time.
154. On 12 April 2022, Evans wrote to the CBI (**12 April 2022 Letter**).

155. The 12 April 2022 Letter stated:

- (a) the methodology and approach to the development of PCSIL's AML/CTF business wide risk assessment was approved by PCSIL's board on 3 March 2022;
- (b) PCSIL's review of its distributors and customers was a significant piece of work for which plans were currently underway and the CBI Steer Co has approved a revised date of 30 July 2022 for completion of this part of the programme; and
- (c) as PCSIL moved to the next phase of implementation and remediation, more detailed planning was underway.

D.16 Events between the 26 April 2022 and 25 July 2022 ASX announcements

156. On 16 June 2022, the CBI wrote to PCSIL (**16 June 2022 Letter**).

157. The 16 June 2022 Letter stated amongst other things that:

- (a) it was the CBI's view that PCSIL's progress on remediation to date was limited;
- (b) the CBI had identified a number of significant shortcomings in PCSIL's approach to, and in particular the sequencing and timelines of its remediation programme all of which have been communicated to PCSIL as part of ongoing supervisory engagement but have not been addressed to date;
- (c) while PCSIL continued to seek to remediate key deficiencies in its AML/CTF framework, the CBI suspected that PCSIL continued to be in breach of key requirements of Part 3 of the 2010 Act;
- (d) the CBI remained concerned that PCSIL's products/services were potentially being used by criminals to undertake fraud and ML/TF activities. This was supported by the volume of complaints that had been made directly to the CBI and other regulators (including policing authorities) in relation to fraudulent activity using PCSIL's products and/or services since October 2020;
- (e) it should be noted that notwithstanding PCSIL's assertion that improvements had been made to its AML/CTF controls since it commenced remediation, the CBI and other regulators had not seen a reduction in the extremely high volume of fraud complaints. The volume of fraud related complaints relating to PCSIL far exceeded the number of fraud related complaints received by the CBI in respect of any other firm it regulated;

- (f) PCSIL continued to experience high staff turnover in its senior functions and had not yet identified a permanent chief executive officer who, together with the board, were critical to drive forward and embed a comprehensive and effective remediation programme;
- (g) the CBI considered it unlikely that PCSIL would have fully remediated the identified deficiencies and obtained the necessary third party assurance in respect of the satisfactory and effective completion and embedding of a remediation programme by 8 December 2022, the date on which the current direction was due to expire;
- (h) the CBI had outlined to PCSIL on numerous occasions since July 2021 that it was expected to undertake, as a matter of priority, a review of card limits across all programmes. PCSIL had not approached the recalibration of limits commensurate with the seriousness of the issues identified nor the urgency expected. It did not reduce limits immediately, and where reductions had taken place, it was across a limited number of programmes and in recent months where the adjustments made were minor in nature;
- (i) PCSIL should take action to significantly reduce limits across programmes where any high-risk factors were present so as to ensure that the risk of PCSIL's products and services being vulnerable to ML/TF purposes was reduced while remediation of controls was ongoing. In this regard, the CBI expected PCSIL to reduce the limits on such programmes by a minimum of 30% in addition to any limit reductions already introduced. Should PCSIL not take action proactively to reduce its limits the CBI may direct PCSIL to reduce the limits;
- (j) PCSIL's updated remediation plan slides which were submitted to the CBI on 3 May 2022 had not taken into account the feedback provided by the CBI. The plan failed to take a holistic and risk-based approach to address the significant issues identified in PCSIL's AML/CTF framework and it did not fully consider certain guidelines issued by the CBI;
- (k) the CBI was of the view based on the level of progress by PCSIL to date in its remediation and the sequencing and timelines proposed in the remediation plan that PCSIL did not appropriately understand the high inherent level of ML/TF risk in its business. Consequently, the CBI did not believe that PCSIL had the ability to have a robust, risk-based, legally compliant and effective AML/CTF framework embedded and independently verified by 8 December 2022; and

- (l) PCSIL was required to undertake immediate action to address the issues outlined in the 16 June 2022 Letter, in particular the limits recalibration, with the aim of significantly reducing the potential for PCSIL to be utilised for fraudulent activities.
158. On 1 July 2022, PCSIL wrote to the CBI (**1 July 2022 Letter**).
159. The 1 July 2022 Letter stated:
- (a) PCSIL's board had approved and instructed the business to apply a further 30% reduction across all client categories that have any high risk factor to take effect from close of business on 6 July 2022; and
 - (b) a review of the business wide risk assessment was underway and the updated schedule and sequencing for this review would be presented to PCSIL's board for approval on 20 July 2022 and submitted to the CBI no later than 22 July 2022.

D.17 Events after 25 July 2022 ASX announcement

160. On 2 November 2022, PCSIL informed the CBI that it was not yet in a position to provide a credible remediation plan and that the remediation programme was expected to extend to September 2023, with third party assurance work commencing in Q4 2023.

E THE TRUE POSITION AND INFORMATION

E.1 PCSIL Control Standard Information

161. On and from 19 December 2020, PCSIL's AML/CTF risk and control frameworks and governance had the features and characteristics identified in the Final POR.
162. By reason of the matters pleaded in paragraph 161 above, on and from 19 December 2020, there were significant deficiencies in PCSIL's AML/CTF risk and control frameworks and governance.
163. By reason of the matters pleaded in paragraph 161 above, on and from 19 December 2020, the Conditions for a CBI Written Direction could be satisfied.

PARTICULARS

- i. Upon learning of the significant deficiencies in PCSIL's AML/CTF risk and control frameworks and governance the CBI could have been satisfied that:*
 - a. A CBI written Direction was in the interests of the proper and effective regulation of financial services providers; and*

b. one or more of the following:

- i. PCSIL was failing to comply with or was likely to fail to comply with any condition or requirement imposed by, or by virtue of, financial services legislation;*
- ii. there may be grounds for revoking or not renewing PCSIL's authorisation.*

164. On and from 19 December 2020 (or alternatively, on and from each day after 19 December 2020):

- (a) there were significant deficiencies in the AML/CTF risk and control frameworks and governance of EML's Irish-regulated subsidiary, PCSIL, which since Brexit was operating EML's European Prepaid Financial Services business;
- (b) it was not known to EML what the regulatory consequences from these significant deficiencies would be, but they could include the Irish regulator, the CBI, taking action against PCSIL pursuant to s 45 of the Central Bank Act which gave the regulator a range of powers including ones which could restrict PCSIL's activities in Europe; and
- (c) the significant deficiencies in PCSIL's AML/CTF risk and control frameworks and governance would be addressed by EML so that they met appropriate risk and regulatory compliance, and EML would co-operate with the CBI to the extent required,

(PCSIL Control Standard Information).

PARTICULARS

- i. Paragraphs 161 to 163 above.*
- ii. As to paragraph 164(a), the answers to Questions 2 and 3 of the expert report of Grainne O'Farrelly dated 12 December 2024 (**O'Farrelly Report**).*
- iii. As to paragraph 164(b), the answer to Question 4 of the O'Farrelly Report.*

E.2 August Program Limits Information

165. As at 18 August 2021:

- (a) the CBI had:
 - (i) stated that PCSIL had grown its business volumes materially faster than outlined in its application for authorisation and that PCSIL's current and proposed governance arrangements fell materially below that required for

- an authorised firm operating in an industry that is high risk from an ML/TF perspective;
- (ii) stated that PCSIL's governance arrangements were not comprehensive or proportionate to the volume of activity currently conducted by PCSIL;
 - (iii) made significant findings in the Final POR of deficiencies and non-compliance in relation to PCSIL's AML/CTF framework and governance;
 - (iv) stated that the CBI expected PCSIL to ensure as a matter of priority that transaction limits were set at levels that could assist in the reduction of ML/TF risk exposure, and that the CBI expected PCSIL to undertake, as a priority item, a review of its current card limits across all programs with a view to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation was achieved; and
 - (v) requested that PCSIL provide written details of its proposed approach to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation was achieved, and an articulation of the rationale for the approach being taken by PCSIL;
- (b) the CBI had power to direct PCSIL to reduce its card limits by making a CBI Written Direction; and
 - (c) if EML agreed or was directed to do what the CBI to reduce card limits across its programs (a), this would, or was likely to, materially impact PCSIL's ability to grow its European business until after PCSIL had completed remediated its AML/CTF risk and control frameworks and governance to the CBI's satisfaction.

PARTICULARS

- i. The 17 May 2021 Letter stated that the CBI had significant concerns that PCSIL had grown its business volumes materially faster than outlined in its application for authorisation and that the CBI was not satisfied that PCSIL's governance arrangements remained comprehensive or proportionate to the volume of activity conducted by PCSIL.*
- ii. By 19 May 2021 the CBI had stated in correspondence that it had significant concerns about PCSIL's AML/CTF frameworks and governance.*
- iii. The 9 June 2021 Email stated that the CBI was of the view that it would not be appropriate for PCSIL to submit new distributor notifications to the CBI and that it was the CBI's expectation that PCSIL should be seeking to address control deficiencies rather than further business expansion.*

- iv. *The 5 July 2021 Letter stated that:*
 - a. *the CBI expected PCSIL to outline in its proposed remediation plan how it would ensure that the business would not grow materially until the CBI was satisfied that any agreed remediation plan had been implemented effectively and that consequently the necessary risk management and governance frameworks were in place to effectively manage material growth;*
 - b. *in assessing any new distributor notifications the CBI would take into account the overall context, including the CBI's concerns regarding PCSIL and the CBI's view that PCSIL should not materially grow its business pending implementation of a remediation plan; and*
 - c. *the CBI expected PCSIL to ensure as a matter of priority that transaction limits were set at levels that could assist in the reduction of ML/TF risk exposure and the generation of appropriate triggers and that the CBI was not satisfied that PCSIL's transaction limits could adequately achieve this and that the CBI expected PCSIL to undertake, as a priority item, a review of its current card limits across all programs with a view to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation was achieved.*
- v. *The 30 July 2021 Email stated that PCSIL's proposed interim measures did not contain critical information regarding how PCSIL proposed to manage material growth.*
- vi. *The findings contained in the Final POR.*
- vii. *The 16 August 2021 Email:*
 - a. *reiterated the CBI's expectation that PCSIL undertake a review of card limits across all programs, with a view to recalibrating the limits to reduce ML/TF risk; and*
 - b. *requested PCSIL provide written details of its proposed approach to this recalibration, including an articulation of the rationale for the approach being proposed.*
- viii. *Answer to Question 9 of the O'Farrelly Report.*

166. On and from 18 August 2021 (or alternatively, on and from each day after 18 August 2021), until the remediation required to address the AML/CTF regulatory issues had been completed and finalised to the CBI's satisfaction, the CBI was likely to require or expect limits to be imposed upon a significant number of PCSIL's programs which could materially impact PCSIL's European operations (**August Program Limits Information**).

PARTICULARS

- i. *Paragraph 165 above.*
- ii. *Answer to Question 9 of the O'Farrelly Report.*

E.3 Initial PCSIL Remediation Timing Information

167. On and from 18 August 2021 (or alternatively, on and from each day after 18 August 2021), the remediation required to address the AML/CTF regulatory compliance issues raised by the CBI in relation to PCSIL to the CBI's satisfaction was unlikely to be completed and finalised until towards the end of calendar year 2022 (**Initial PCSIL Remediation Timing Information**).

PARTICULARS

- i. *Answer to Question 8 of the expert report of O'Farrelly Report.*
- ii. *PFS' risk and compliance department was "extremely under resourced" and "the base is shaky at best" [EML.0098.0214.8573; EML.0098.0214.8575].*
- iii. *The 5 July 2021 Letter stated that:*
 - a. *the CBI considered PCSIL to have an apparent lack of understanding of how to appropriately assess its ML/TF risks;*
 - b. *the CBI considered that in the absence of an appropriate assessment of PCSIL's inherent risk profile PCSIL could not design and implement a robust AML/CTF framework;*
 - c. *the CBI expected the proposed remediation plan to be underpinned by appropriate risk management that focused on the ML/TF risk inherent to PCSIL; and*
 - d. *the CBI considered that having regard to the deficiencies identified in PCSIL it seemed likely that any remediation plan, in order to achieve an acceptable level of remediation, would require a considerable implementation period.*
- iv. *By on or around 2 July 2021, the CBI Steer Co had determined to reduce the contributions being made by PwC to the remediation programme.*
- v. *The 9 July 2021 Letter that identified the nature and extent of the CBI's concerns about governance, internal controls and risk management arrangements as set out in the Final POR and the actions proposed by the CBI to address those findings.*
- vi. *The 6 October 2021 Letter that stated:*
 - a. *the CBI considered that a considerable implementation period for the remediation plan would be required to achieve an acceptable level of remediation;*
 - b. *it was the CBI's expectation that PCSIL would obtain third party assurance in respect of the adequacy and effectiveness of the remediation plan once implemented;*
 - c. *the nature and extent of the deficiencies identified by the CBI as set out in the Final Findings Report and the steps required to address those deficiencies; and*
 - d. *the CBI was minded to make directions for a period of 12 months.*
- vii. *The 10 February 2022 Meeting where the CBI stated that:*

- a. *the CBI considered the timelines in PCSIL's remediation plan appeared overly optimistic and in some areas appeared to lack credibility;*
 - b. *PCSIL should revise its remediation plan to ensure that the timelines were credible and took into account the seriousness of the issues identified and the depth of remediation required, and that the sequencing was appropriate; and*
 - c. *the remediation plan should build in the completion of validation by an independent third-party review which should only commence following a reasonable period in order to allow the third party to test that the controls were embedded and operatively effectively;*
- viii. *The 15 February 2022 Letter that stated:*
- a. *the CBI considered the timelines in PCSIL's remediation plan appeared overly optimistic and in some areas appeared to lack credibility;*
 - b. *PCSIL should revise its remediation plan to ensure that the timelines were credible and took into account the seriousness of the issues identified and the depth of remediation required, and that the sequencing was appropriate; and*
 - c. *the remediation plan should build in the completion of validation by an independent third-party review which should only commence following a reasonable period in order to allow the third party to test that the controls were embedded and operatively effectively.*

E.4 First Guidance Inability Information

168. On and from 18 August 2021 (or alternatively, on and from each day after 18 August 2021), EML was not able to reliably forecast its earnings, profitability and growth, given the AML/CTF regulatory concerns raised by the CBI with PCSIL, the implementation of PCSIL's remediation plan, and any material growth restrictions that may be imposed by the CBI (**First Guidance Inability Information**).

PARTICULARS

- i. *The 9 June 2021 Email stated that the CBI was of the view that it would not be appropriate for PCSIL to submit new distributor notifications to the CBI and that it was the CBI's expectation that PCSIL should be seeking to address control deficiencies rather than further business expansion.*
- ii. *The 30 June 2021 Letter stated that the CBI's position was that it would not be prudent for PCSIL to appoint additional distributors given the CBI's expectation that PCSIL should focus on the development and implementation of a remediation plan rather than materially growing its business and any such applications would be considered by the CBI but assessed in the overall context, including the CBI's concerns regarding PCSIL.*

- iii. *The 5 July 2021 Letter stated that:*
 - a. *the CBI expected PCSIL to outline in its proposed remediation plan how it would ensure that the business would not grow materially until the CBI was satisfied that any agreed remediation plan had been implemented effectively and that consequently the necessary risk management and governance frameworks were in place to effectively manage material growth;*
 - b. *in assessing any new distributor notifications the CBI would take into account the overall context, including the CBI's concerns regarding PCSIL and the CBI's view that PCSIL should not materially grow its business pending implementation of a remediation plan; and*
 - c. *the CBI expected PCSIL to ensure as a matter of priority that transaction limits were set at levels that could assist in the reduction of ML/TF risk exposure and the generation of appropriate triggers and that the CBI was not satisfied that PCSIL's transaction limits could adequately achieve this and that the CBI expected PCSIL to undertake, as a priority item, a review of its current card limits across all programs with a view to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation was achieved.*
- iv. *The 30 July 2021 Email stated that PCSIL's proposed interim measures did not contain critical information regarding how PCSIL proposed to manage material growth.*
- v. *The 16 August 2021 Email stated that:*
 - a. *the CBI sought clarification as to how PCSIL's proposed growth limit of 30% in average payment value did not constitute material growth; and*
 - b. *reiterated the CBI's expectation that PCSIL undertake a review of card limits across all programs, with a view to recalibrating the limits to reduce ML/TF risk.*
- vi. *The 6 October 2021 Letter stated that:*
 - a. *the CBI was not satisfied that what was proposed by PCSIL was sufficient to manage and limit the identified risks in the interim period;*
 - b. *the CBI was of the view that what was proposed by PCSIL did not acknowledge or reflect the extent or severity of the current issues with PCSIL;*
 - c. *the CBI was not satisfied with the proposals put forward by PCSIL regarding measures to limit material growth and a review of current card limits across all programs with a view to recalibrating limits as a matter of priority to reduce ML/TF risk, were sufficient to manage and limit the risks the remediation plan sought to address in the interim period; and*

- d. *the CBI was minded to impose a direction pursuant to s 45 to take the following actions for a period of 12 months: (i) PCSIL shall not appoint any distributors without the CBI's prior consent; (ii) PCSIL shall ensure that the total payment value for the period from 1 November 2021 to 31 October 2022 is not in excess of 10% above the baseline; and (iii) PCSIL shall reduce by 75% the current product limits in place for the value of loading e-money products, the value of SEPA transfers, ATM withdrawals, and the maximum value which can be stored electronically on a card.*
- vii. *The 19 October 2021 Letter described what had been proposed by the CBI in the 6 October 2021 Letter as having "catastrophic consequences" for PCSIL so much that an orderly wind down would need to be considered if those conditions were imposed.*
- viii. *From 19 May 2021, alternatively 9 June 2021, there was inherent uncertainty as to the extent of the impact that any steps that the CBI might take in relation to PCSIL such that PCSIL could not reliably forecast its earnings, profitability and growth.*
- ix. *Answer to Question 8 of the Farrelly Report.*
- x. *The particulars provided in subparagraphs D1 and D2 of Annexure D below are repeated.*

E.5 November Program Limits Information

169. On and from 25 November 2021 (or alternatively, on and from each day after 25 November 2021), until the remediation required to address the AML/CTF regulatory issues had been completed and finalised to the CBI's satisfaction, the CBI was likely to require or expect limits to be imposed upon a significant number of PCSIL's programs which could materially impact PCSIL's European operations (**November Program Limits Information**).

PARTICULARS

- i. *The 17 May 2021 Letter stated that the CBI had significant concerns that PCSIL had grown its business volumes materially faster than outlined in its application for authorisation and that the CBI was not satisfied that PCSIL's governance arrangements remained comprehensive or proportionate to the volume of activity conducted by PCSIL.*
- ii. *By 19 May 2021 the CBI had stated in correspondence that it had significant concerns about PCSIL's AML/CTF frameworks and governance.*
- iii. *The 9 June 2021 Email stated that the CBI was of the view that it would not be appropriate for PCSIL to submit new distributor notifications to the CBI and that it was the CBI's expectation that PCSIL should be seeking to address control deficiencies rather than further business expansion.*
- iv. *The 5 July 2021 Letter stated that:*

- a. *the CBI expected PCSIL to outline in its proposed remediation plan how it would ensure that the business would not grow materially until the CBI was satisfied that any agreed remediation plan had been implemented effectively and that consequently the necessary risk management and governance frameworks were in place to effectively manage material growth;*
 - b. *in assessing any new distributor notifications the CBI would take into account the overall context, including the CBI's concerns regarding PCSIL and the CBI's view that PCSIL should not materially grow its business pending implementation of a remediation plan; and*
 - c. *the CBI expected PCSIL to ensure as a matter of priority that transaction limits were set at levels that could assist in the reduction of ML/TF risk exposure and the generation of appropriate triggers and that the CBI was not satisfied that PCSIL's transaction limits could adequately achieve this and that the CBI expected PCSIL to undertake, as a priority item, a review of its current card limits across all programs with a view to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation was achieved.*
- v. *The 30 July 2021 Email stated that PCSIL's proposed interim measures did not contain critical information regarding how PCSIL proposed to manage material growth.*
- vi. *The findings contained in the Final POR.*
- vii. *The 16 August 2021 Email:*
- a. *reiterated the CBI's expectation that PCSIL undertake a review of card limits across all programs, with a view to recalibrating the limits to reduce ML/TF risk; and*
 - b. *requested PCSIL provide written details of its proposed approach to this recalibration, including an articulation of the rationale for the approach being proposed.*
- viii. *The 6 October 2021 Letter stated that:*
- a. *the CBI was not satisfied that what was proposed by PCSIL was sufficient to manage and limit the identified risks in the interim period;*
 - b. *the CBI was of the view that what was proposed by PCSIL did not acknowledge or reflect the extent or severity of the current issues with PCSIL;*
 - c. *the CBI was not satisfied with the proposals put forward by PCSIL regarding measures to limit material growth and a review of current card limits across all programs with a view to recalibrating limits as a matter of priority to reduce ML/TF risk, were sufficient to manage and limit the risks the remediation plan sought to address in the interim period; and*

- d. *the CBI was minded to impose a direction pursuant to s 45 to take the following actions for a period of 12 months: (i) PCSIL shall not appoint any distributors without the CBI's prior consent; (ii) PCSIL shall ensure that the total payment value for the period from 1 November 2021 to 31 October 2022 is not in excess of 10% above the baseline; and (iii) PCSIL shall reduce by 75% the current product limits in place for the value of loading e-money products, the value of SEPA transfers, ATM withdrawals, and the maximum value which can be stored electronically on a card.*
- ix. *The 19 October 2021 Letter described what had been proposed by the CBI in the 6 October 2021 Letter as having "catastrophic consequences" for PCSIL so much that an orderly wind down would need to be considered if those conditions were imposed.*
- x. *The 9 December 2021 Letter.*
- xi. *The 14 January 2022 Letter which sought further information and clarification in relation to PCSIL's limits recalibration.*
- xii. *The 3 March 2022 Letter which outlined concerns in relation to PCSIL's limits review programme.*
- xiii. *The 16 June 2022 Letter which stated that:*
 - a. *the CBI had outlined to PCSIL on numerous occasions since July 2021 that it was expected to undertake, as a matter of priority, a review of card limits across all programs. PCSIL had not approached the recalibration of limits commensurate with the seriousness of the issues identified nor the urgency expected. It did not reduce limits immediately, and where reductions had taken pace, it was across a limited number of programs and in recent months the adjustments made were minor in nature; and*
 - b. *PCSIL should take action to significantly reduce limits across programs where any high-risk factors were present so as to ensure that the risk of PCSIL's products and services being vulnerable to ML/TF purposes was reduced while remediation of controls was ongoing. In this regard, the CBI expected PCSIL to reduce the limits on such programs by a minimum of 30% in addition to any limit reductions already introduced. Should PCSIL not take action to reduce its limits the CBI may direct PCSIL to reduce the limits.*
- xiv. *The 1 July 2022 Letter which stated:*
 - a. *PCSIL's board had approved and instructed the business to apply a further 30% reduction across all client categories that have any high risk factor to take effect from the close of business on 6 July 2022; and*
 - b. *a review of the business wide risk assessment was underway.*
- xv. *Answer to Question 9 of the Farrelly Report.*

E.6 PCSIL Growth Impact Timing Information

- 170. On and from 25 November 2021 (or alternatively, on and from each day after 25 November 2021), material impacts on PCSIL's ability to grow its European business would continue

throughout 2022 and may continue into calendar year 2023 (**PCSIL Growth Impact Timing Information**).

PARTICULARS

- i. Answer to Question 9 in the Farrelly Report.*
- ii. The particulars provided in subparagraphs C1(q) to C1(ff) of Annexure C and subparagraphs F1, F3, F5, F7, F9 and F11 of Annexure F are repeated.*
- iii. Until such time as remediation was completed and verified by a third party the directions in the 23 November 2021 Letter were likely to be extended beyond 30 November 2022, such that total incoming payment value would not be permitted by the CBI to exceed 10% above the baseline calculated as at 23 November 2021.*

E.7 Second Guidance Inability Information

171. On and from 25 November 2021 (or alternatively, on and from each day after 25 November 2021), EML was not able to reliably forecast its earnings, profitability and growth given the AML/CTF regulatory concerns raised by the CBI with PCSIL, the implementation of PCSIL's remediation plan, and the material growth restrictions that had been imposed by the CBI (**Second Guidance Inability Information**).

PARTICULARS

- i. The particulars to paragraph 168 and 165 above are repeated.*
- ii. Following from 25 November 2021, PCSIL had still not taken steps to propose a reduction in card limits which was acceptable to the CBI to reduce its AML/CTF risk until the remediation plan had been completed.*
- iii. The 14 January 2022 Letter sought information and clarification in relation to PCSIL's limits recalibration.*
- iv. The 3 March 2022 Letter outlined a number of concerns in relation to PCSIL's limits review programme.*
- v. The 16 June 2022 Letter stated that:*
 - a. the CBI on numerous occasions since July 2021 that PCSIL was expected as a matter of priority to review card limits across all programs and that PCSIL did not approach that recalibration of limits commensurate with the seriousness of the issues identified and the urgency expected;*
 - b. PCSIL did not reduce limits immediately, and where reductions did take place, it was across a limited number of programmes and in recent months where the adjustments made were minor in nature; and*

- c. *PCSIL should take action to significantly reduce limits across programmes where any high risk factors are present so as to ensure that the risk of PCSIL's products and services being vulnerable to ML/TF purposes is reduced while remediation of controls is ongoing. In this regard, the CBI expects PCSIL to reduce the limits on such programmes by a minimum of 30% in addition to any limit reductions already introduced. Should PCSIL not take action proactively to reduce its limits the CBI may direct PCSIL to reduce the limits.*
- vi. *The particulars provided in subparagraphs G1 and G2 of Annexure G below are repeated.*

E.8 Revised PCSIL Remediation Timing Information

172. On and from 16 February 2022 (or alternatively, on and from each day after 16 February 2022), the remediation required to address the AML/CTF regulatory compliance issues raised by the CBI in relation to PCSIL to the CBI's satisfaction was unlikely to be completed and finalised until February 2023 (or later) (**Revised PCSIL Remediation Timing Information**).

PARTICULARS

- i. *The particulars to paragraph 167 above are repeated.*
- ii. *The particulars provided in subparagraphs H1, H3, H5, H7, H9 and H11 of Annexure H are repeated.*

F THE 19 MAY 2021 DISCLOSURE AND ITS IMPACT

F.1 19 May 2021

173. On 17 May 2021 at 950AM, EML shares were placed in trading halt at the request of EML, pending it releasing an announcement to the ASX.
174. On 19 May 2021, EML published to the ASX a document entitled "Central Bank of Ireland correspondence" (**19 May 2021 Announcement**).
175. In the 19 May 2021 Announcement, EML made the following statements:

EML advises that its Irish regulated subsidiary, PFS Card Services (Ireland) Limited ('PCSIL'), has received correspondence from the Central Bank of Ireland ('CBI'), including a letter received on Friday 14 May 2021 (Australian time) raising significant regulatory concerns ('Correspondence'). The CBI is the relevant regulator in Ireland.

The CBI's concerns relate to PCSIL's Anti-Money Laundering / Counter Terrorism Financing ('AML/CTF'), risk and control frameworks and governance. The

Correspondence states that the CBI is minded to issue directions to PCSIL pursuant to section 45 of the Central Bank (Supervision and Enforcement) Act 2013.

The Correspondence does not concern EML's Australian and North American operations, or the operations of PFS' UK subsidiary ('Prepaid Financial Services Limited' which is incorporated in England and regulated by the FCA), or EML's other Irish regulated subsidiary ('EML Money DAC').

Prior to 19 December 2020, PFS' European business primarily operated through its FCA regulated subsidiary. However, as a result of Brexit, PFS was required to transfer non-UK programs out of the UK. On 19 December 2020, all of PFS' European programs were transferred to its CBI regulated subsidiary PCSIL.

The directions, if made, could materially impact the European operations of the Prepaid Financial Services business, including potentially restricting PCSIL's activities under the Irish authorisation. During the period from 1 January 2021 to 31 March 2021, EML estimates that approximately 27% of EML's global consolidated revenue (unaudited) derived from programs operating under PCSIL's Irish authorisation.

The CBI has invited PCSIL to provide it with submissions in relation to the concerns, which PCSIL intends to do by 27 May 2021.

The CBI and PCSIL are currently in close dialogue regarding the concerns raised and PCSIL is working with the CBI to assist it in receiving information and documentation relevant to its concerns.

EML welcomes the opportunity to work more closely with the CBI in relation to the matters raised and PCSIL's business model more generally. EML is committed to cooperating with the CBI and is taking steps to address concerns raised.

EML is independently regulated in multiple regions and subject to regular audits by various parties including Central banks, payment schemes, external and internal auditors and other third parties. EML takes regulatory compliance, including AML/CTF, risk management and governance very seriously, and is committed to ensuring our global operations meet the highest standards of risk and regulatory compliance.

Given the timing and early stages of discussion with the CBI, EML is presently unable to estimate the potential direct and consequential costs (including but not limited to legal costs) and impacts of the Correspondence on the Group's consolidated FY21 results.

Excluding these costs and impacts, we remain on track to achieve the underlying results previously guided to for the FY21 year, which were:

- *Underlying full year revenues of between \$180 - \$190 million;*
- *Underlying full year EBITDA between \$50 - \$54 million;*
- *Underlying full year NPATA between \$30 million - \$33.5 million;*
- *Underlying full year Operating Cashflow Conversion from EBITDA of between 90 – 110%;*
- *Underlying full year EBITDA per share of between 13.8 – 15.0 cents / share.*

F.2 Price effect of the 19 May 2021 Announcement

176. Following the release of the 19 May 2021 Announcement, the price of EML Shares fell substantially.

PARTICULARS

- i. *The price of EML Shares fell from a closing price of \$5.15 on Friday 14 May 2021 to a closing price of \$2.80 on Wednesday 19 May 2021.*

G WHAT EML SAID FROM 19 MAY 2021 TO 7 OCTOBER 2021

G.1 19 May 2021 to 16 August 2021

177. On 7 June 2021, EML published a document to the ASX entitled "Investor Briefing and Q3 FY21 Trading Update" (**7 June 2021 Announcement**).

178. On 7 June 2021, Cregan presented the 7 June 2021 Announcement to investors and potential investors in EML Shares at the Macquarie Emerging Leaders Conference.

179. The 7 June 2021 Announcement contained the following statements:

Current Status

- EML advised the market on 19 May 2021 that it had received correspondence from the CBI raising significant regulatory concerns ("Section 45 letter"). EML responded to the CBI's Section 45 letter within the deadline, on 27 May 2021.
- EML remains in an ongoing dialogue with the CBI in relation to their concerns through substantial responses, data and access to our teams.
- There is no statutory timeframe for the CBI to finalise its consideration of the matter.
- A project governance structure has been established to assist our local team in Ireland, including a subcommittee of the EML Board, members of the EML executive team, external expert regulatory consultants and legal resources.

Communication

- We are working co-operatively with the CBI and its authorised officer.
- Communication with the CBI are confidential and we will provide updates when appropriate.
- EML is proactively communicating with, and providing information if and when requested, with other regulators in the regions where EML operates.

Business Impact

- We continue to focus on EML's strong pipeline of new customers and support our existing customers, yet we are aware that ongoing uncertainty is a risk and challenge.
- Immediate one-off costs incurred for legal (Arthur Cox) and professional advisory (PriceWaterhouseCoopers) fees are expected to be less than \$2 million in FY21. In addition, we may see an impact of delayed program launches on establishment income and transaction fees which we can not quantify at this time
- Financial impacts for FY22 cannot be fully determined at this time.

G.2 17 August 2021 and 18 August 2021

180. On 17 August 2021, EML published two documents to the ASX entitled:

- (a) "FY21 Results Investor Presentation and FY22 Guidance" (**17 August 2021 Presentation**); and

- (b) “EML Announces Record Revenue of \$194.2M and Underlying EBITDA of \$53.5M”
(17 August 2021 ASX Announcement).

181. On 18 August 2021, EML held a call with market analysts, a transcript of which was published to the ASX on 20 August 2021 (18 August 2021 Investor Call).

PARTICULARS

- i. As to paragraph 181, the transcript was published to the ASX in a document titled ‘Investor Presentation – Transcript’.*

182. Cregan:

- (a) was a participant in the 18 August 2021 Investor Call; and
- (b) presented the 17 August 2021 Presentation as part of the 18 August 2021 Investor Call.

183. The 17 August 2021 Presentation, the 17 August 2021 ASX Announcement and 18 August 2021 Announcement contained the following statements:

- (a) *Regulatory Update*

CBI Update

- *EML operates in highly regulated markets around the world including Australia, the United Kingdom, Europe, and the United States. (17 August 2021 Presentation).*
- *EML works hard to meet our evolving regulatory requirements in each market and to maintain collaborative relationships with all of our regulators. (17 August 2021 Presentation).*
- *Our businesses subject [sic] to regular audits from regulators, as well as from a range of external experts. These activities are carried out in the normal course of operating our businesses and we welcome the opportunity for external perspectives in relation to what we are doing well and, from time to time, where we can strengthen our systems and processes. (17 August 2021 Presentation).*
- *EML has been working constructively with the Central Bank of Ireland (CBI) in relation to regulatory concerns it raised in its May 2021 correspondence about our PFS Card Services Ireland Limited (“PCSIL”) business. (17 August 2021 Presentation).*

- *CBI has investigated various aspects of the PCSIL business from a governance, resourcing, reporting, risk methodologies, controls and risk frameworks, capital adequacy, safeguarding and transaction monitoring perspective. (17 August 2021 Presentation).*
- *EML has responded in significant detail to the CBI on all matters and has provided CBI with a detailed remediation plan addressing the concerns raised by the CBI. EML is engaged in regular contact with the CBI in the implementation of this plan. EML expects the remediation plan to be substantively complete by the end of the 2021 calendar year, with remaining items remediated by the end of March 2022. (17 August 2021 Presentation).*
- *EML will not recognise the contingent asset in relation to any claims under the Share Purchase Agreement entered into March 2020, unless recovery is virtually certain. (17 August 2021 Presentation).*
- *Actions undertaken since EML's acquisition of PCSIL include:*
 - *Additional Directors now sitting on the PCSIL Board, including an independent non-Executive Chairman.*
 - *Implementation of "GBG Predator", a sophisticated transaction monitoring and fraud detection tool purchased by PCSIL in December 2020 and implemented in July 2021.*
 - *Implementation of Bureau Van Dijk global Know Your Business AML solution purchased in October 2020 and implemented for Europe in November 2020.*
 - *Implementation of eKYC solution – Jumio in November 2020.*
 - *Implementation of eKYC solution – Ariad Next in October 2020. (17 August 2021 Presentation).*
- *EML is in dialogue with the CBI regarding restriction of material growth in PCSIL's business, with the expectation that such restrictions will only apply during the remediation phase. (17 August 2021 Presentation).*
- *Any such restrictions are likely to affect the number of new programs PCSIL is permitted to launch while restrictions apply. (17 August 2021 Presentation).*

- (b) *EML has been working constructively with the Central Bank of Ireland (CBI) in relation to regulatory correspondence received in May 2021 about our PFS Card Services Ireland Limited (“PCSIL”) business. The CBI has investigated various aspects of PCSIL business from a governance, resourcing, reporting, risk methodologies, controls and risk frameworks, capital adequacy, safeguarding and transaction monitoring perspective (17 August 2021 ASX Announcement, pg. 4).*

EML has responded in significant detail to the CBI on all matters and has provided the CBI with a detailed remediation plan and is actively engaged with the CBI in the implementation of this plan. We have engaged specialist advice in relation to the remediation plan and our intention is to complete a substantive part of the remediation by the end of the calendar year 2021, with remaining elements to be completed by the end of March 2022 (17 August 2021 ASX Announcement, pg. 4).

We have incurred costs and provisions of \$11.4 million in FY21, relating to remediation, advisory and other expenses relating to this matter. (17 August 2021 ASX Announcement, pg. 4)

- (c) *As a leader in this industry, we take our regulatory and compliance obligations extremely seriously and indeed we believe that it's our commitment and our investment in that area that has kind of established the foundation for growth that we've enjoyed in the last nine years. Our commitment to best practice in that area is unwavering. That's what we've communicated to the Central Bank and we're actively engaged in with the Central Bank on a remediation program which we are looking to substantially complete by the end of the 2021 calendar year, with remaining items to be completed by the end of March 2021 (18 August 2021 Investor Call).*
- (d) *Our focus is on the remediation project and we're well under way with this as you'd expect, given as I said the dates that I mentioned before. (18 August 2021 Investor Call).*
- (e) *I think the thing that investors will be looking for in relation to the CBI matter, they'll be pleased to hear that obviously the remediation plan is in place and the CBI is comfortable obviously with us saying that we're actively engaged in that process. (18 August 2021 Investor Call).*
- (f) Guidance for FY22 was:
- (i) GDV of \$93 billion to \$100 billion;

- (ii) Revenue of \$220 million to \$255 million;
- (iii) EBITDA of \$58 million to \$65 million; and
- (iv) NPATA of \$27 million to \$34 million.

H THE 7 OCTOBER 2021 DISCLOSURE AND ITS IMPACT

H.1 7 October 2021

184. On 7 October 2021 at 4.05pm, EML published a document to the ASX entitled “Central Bank of Ireland Update” (**7 October 2021 Announcement**).
185. In the 7 October 2021 Announcement, EML made the following statements:

EML advises that its Irish regulated subsidiary, PFS Card Services (Ireland) Limited (‘PCSIL’), has received further correspondence from the CBI regarding the CBI’s regulatory concerns in relation to PCSIL and potential directions (‘Correspondence’), including but not limited to the remediation plan and material growth.

The nature of those potential directions is more limited than those originally foreshadowed by the CBI in May 2021. However, as presently framed, EML considers that the directions could materially impact the European operations of the Prepaid Financial Services business.

Whilst acknowledging the remediation program currently underway and governance improvements with the PCSIL Board, the CBI has advised that PCSIL’s proposed material growth policy, as requested and approved by the PCSIL Board, is higher than what the CBI would want to see.

In addition, the CBI has proposed that certain limits be applied to programs that, if implemented, could have a negative impact on the PCSIL business. EML notes that, subject to endorsement from the PCSIL Board, it is due to present to the CBI a significant and detailed analysis of limits applied across almost 27,000 programs in the next week along with a proposed recalibration of limits for certain programs.

The CBI has invited PCSIL to provide it with submissions in relation to the potential directions, which PCSIL intends to do by 28 October 2021.

The CBI and PCSIL are in ongoing dialogue regarding the concerns raised by CBI and PCSIL’s remediation plan. The remediation plan remains on track.

The Correspondence does not concern EML's Australian or North American operations, or the operations of PFS' UK subsidiary ('Prepaid Financial Services Limited' which is incorporated in England and regulated by the FCA), or EML's other Irish regulated subsidiary ('EML Money DAC'), Sentenial Limited and Nuapay SAS, EML's French regulated subsidiary.

EML is independently regulated in multiple regions and subject to regular audits by various parties including Central banks, payment schemes, external and internal auditors and other third parties. EML takes regulatory compliance, including AML/CTF, risk management and governance very seriously, and is committed to ensuring our global operations meet the highest standards of risk and regulatory compliance.

H.2 Price effect of the 7 October 2021 Announcement

186. Following the release of the 7 October 2021 Announcement, the price of EML Shares fell substantially.

PARTICULARS

- i. The price of EML Shares fell from a closing price of \$3.7 on 7 October 2021 to a closing price of \$3.16 on 8 October 2021.*

I WHAT EML SAID FROM 7 OCTOBER 2021 TO 25 APRIL 2022

I.1 17 and 25 November 2021

187. On 17 November 2021, EML held its annual general meeting, a transcript of which was published on the ASX (**2021 AGM**).
188. At the 2021 AGM, Martin made the following statements:
- (a) *We are making solid progress in our remediation efforts within our Irish subsidiary PCSIL and expect the outstanding issues with the Irish regulator, the Central Bank of Ireland (CBI), to be resolved.*
 - (b) *We are expecting a comprehensive Remediation Plan in PCSIL to meet CBI's concerns. The plan is on track to be substantially completed by Christmas with any residual items in place by March 2022. The team in Ireland has established a positive working relationship with the CBI and we expect that any residual concerns will be resolved.*

- (c) *The Central Bank of Ireland deems all e-money institutions to be high risk, and they require firms in such sectors to have very strong AML/CTF frameworks in place to mitigate that inherent risk consistent with their expectations. The Boards of PCSIL (our Irish regulated entity) and EML have endorsed a Remediation Plan that has been in progress for some months. We have designed the Remediation Plan such that, once fully implemented, it will see PCSIL meet or exceed the CBI's expectations. We report updates to the Central Bank of Ireland monthly and have provided three updates to date, with the fourth due at the end of November. 45% of Level 1 tasks were completed as at the end of October.*
- (d) *We have engaged resources, both internal and external, to ensure that we meet the completion date of the end of Q3FY22. We expect the business in Europe will emerge stronger and more robust once it completes implementation of the Remediation Plan, and will be allowed to grow the business within the new risk and controls frameworks being established.*
- (e) *We have made significant improvements to our transaction monitoring capabilities, with over 180 unique rule sets now employed. In the first 3 weeks of October 2021 PCSIL processed 8.16 million transactions and declined 1.17 million transactions that did not comply within these rules sets. From a fraud monitoring perspective our non-recovered fraud losses in PCSIL, post-acquisition in April 2020, are de minimus.*
- (f) *EML operates in highly regulated markets in Australia, New Zealand, the United Kingdom, Europe and North America. Our business is subject to regular audits in the normal course of business and we welcome the opportunity to further strengthen our processes to ensure that we meet the highest standards of risk and regulatory compliance. We have approached our Remediation Plan in this light and there are no other regulatory matters of concern that have been raised to our attention by other regulators in other markets in which we operate, allowing us to continue to successfully execute on our growth strategy in those markets (pg. 18).*
- (g) *CBI has been concerned about the rapid rate of growth of PCSIL. We think that this can be managed and have already eliminated some legacy, high volume and low margin, programmes under PCSIL and created significant headroom for growth at potentially better margins.*

189. At the 2021 AGM, Cregan made the following statements:

- (a) *Moving onto Slide 16, we provided guidance for the FY22 year in August, earlier than in previous years due to the financial impact the CBI matter was projected to have on our business in FY22 and the market expectations at that time.*

The original guidance in August was...

As you will see, we have tightened the revenue range to be between \$230 million and \$250 million and we have kept out underlying EBITDA guidance between \$58 million to \$65 million in place.

- (b) *Moving onto Slide 18 and our regulatory update, EML has been working constructively with the Central Bank of Ireland (CBI) in relation to regulatory concerns it raised in May about our subsidiary, Prepaid Card Services Ireland Limited ("PCSIL").*
- (c) *Our advisors in Ireland understand Ireland's unique regulatory landscape and are accustomed to dealing with the CBI which regards e-money institutions as "inherently high risk" and expects these institutions to have very strong AML and CTF frameworks in place to mitigate this risk.*
- (d) *As outlined in August and re-iterated today, the Central Bank of Ireland has not identified any instances of Financial crime, AML or CTF events, nor deficiencies with respect to safeguarding, capital adequacy, or solvency measures.*
- (e) *The remediation plan that we committed ourselves to is focused on our control frameworks and it is the position of the Central Bank that unless control frameworks are to their expectation then an unacceptable risk of AML/CTF exists.*
- (f) *PCSIL has completed 45% of the Level 1 tasks in the remediation plan is well advanced on remaining items, has provided three detailed updates to the Central Bank and will continue to provide monthly progress updates through to completion.*
- (g) *As advised to shareholders on October 7th the company received a second "minded to" letter referring to material growth and program limits. The PCSIL Board responded to the CBI in writing on the 28th of October and as does not yet have a formal response.*
- (h) *The Board of PCSIL continues to engage with the CBI and will update investors when we have sufficient certainty with regard to next steps. What we can provide*

certainty on is that our focus to implement the remediation plan as quickly as possible is unchanged.

190. At the 2021 AGM EML revised its FY22 Guidance to:
- (a) GDV of \$81 to \$88 billion (previously \$93 to \$100 billion);
 - (b) revenue of \$230 to \$250 million (previously \$220 to \$225 million);
 - (c) underlying EBITDA of \$58 to \$65 million (no change); and
 - (d) underlying NPATA of \$27 to 34 million (no change).
191. On 25 November 2021, EML published to the ASX a document entitled “Central Bank of Ireland Update” (**25 November 2021 Announcement**).
192. The 25 November 2021 Announcement was approved by Cregan.
193. The 25 November 2021 Announcement contained the following statements:

EML advises that, following provisions of submissions to the CBI on 28 October 2021, EML’s Irish regulated subsidiary, PFS Card Services (Ireland) Limited (‘PCSIL’), has received further correspondence from the CBI (‘Correspondence’).

The Central Bank of Ireland has advised the following:

- *The CBI will permit PCSIL to sign new customers and launch new programs whilst staying within the material growth restrictions. PCSIL is confident it can meet these obligations.*
- *Broad based reductions in limit controls on programs will not be imposed. The CBI is satisfied to continue to engage with PCSIL with a view to agreeing appropriate limits under its Risk Management and Controls Framework.*
- *The CBI intends a material growth limitation over PCSIL’s total payment volumes will be imposed for 12 months or rescinded earlier following third party verification to confirm PCSIL’s remediation plan has been effectively implemented.*

The CBI has invited PCSIL to provide it with submissions in relation to growth limits, which PCSIL intends to do by 30 November 2021.

As advised at the 2021 Annual General Meeting, PCSIL has been removing higher volume lower yielding programs to enable it to comply with a material growth restrictions and is confident it can meet these obligations.

The remediation plan is on track. PCSIL is committed to meeting the timelines as established by the PCSIL Board and EML Board.

194. Following the release of the 25 November 2021 Announcement, the price of EML Shares increased substantially.

PARTICULARS

- i. The price of EML Shares increased from a closing price of \$2.75 on 24 November 2021 to a closing price of \$3.61 on 25 November 2021.*

I.2 16 February 2022

195. On 16 February 2022, EML:
- (a) published to the ASX a document entitled “EML Reports Record GDV of \$31.6BN and Revenues of \$114.4M for the First Half of FY22” (**16 February 2022 Announcement**);
 - (b) published to the ASX a document entitled “Investor Presentation” (**16 February 2022 Presentation**); and
 - (c) held a call with market analysts, a transcript of which EML published to the ASX on 23 February 2022 (**16 February 2022 Investor Call**).
196. Cregan:
- (a) authorised the release of the 16 February 2022 Announcement; and
 - (b) presented the 16 February 2022 Presentation as part of the 16 February 2022 Investor Call.
197. The 16 February 2022 Announcement, the 16 February 2022 Presentation and the 16 February 2022 Investor Call, contained the following statements:
- (a) *In the second half of the year, we would expect to see a recovery in revenue growth rate and gross margins as we sign and launch new programs in Europe. (16 February 2022 Investor Call).*

- (b) *We are reaffirming our Underlying guidance for FY22 as follows:*
- *Gross Debit Volume between \$81 - \$88 billion (FY21: \$19.7 billion).*
 - *Revenue between \$230 million - \$250 million (up 18-29% on FY21).*
 - *Gross Profit Margin of ~69% (up 2% on FY21).*
 - *Overheads between \$103 million - \$112 million (up 24-46% on FY21).*
 - *Underlying EBITDA forecasted between \$58 - \$65 million (up 8-21% on FY21).*
 - *Underlying NPATA forecasted between \$27 million - \$34 million (down 17% - up 5% on FY21). (16 February 2022 Announcement).*
- (c) *Expect 2H improvement – A number of initiatives have been completed or are underway that will deliver benefits to H2 FY2022 performance (16 February 2022 Presentation).*
- (d) *We remain in line with our guidance expectations as H2 FY2022 will benefit from improved trading conditions, including:*
- *improved interest revenue with further investments in bonds and the benefit of 40bps improvement in the GBP cash rate (+15bps in Dec 21 and +25bps Feb 22);*
 - *improved economics on revised commercial agreements with our schemes;*
 - *introduction of new inactive account maintenance fees on European GOR revenue stream and a non-recurring catch up for historical programs; and*
 - *commenced launching new European programs in December as CBI licence restrictions eased. (16 February 2022 Presentation).*
- (e) *The remediation expenditure will cease once the project is completed by the end of June and won't be carried into FY23.*
- (f) *Our remediation plan is continuing. We expect to fully complete it by 30 June. Whilst we are still under remediation and we still have months of work to do, ultimately this will position us as a stronger business with more resources to support our future growth objectives in Europe.*

- (g) *Yes, that's correct. So that plan has always been for us to implement the full steps in the remediation plan by 30 June. Now included within that is customer notification. So if you're changing limits to certain customer programs, or changing terms and conditions, that requires a 60-day notification to comply with consumer law in most countries. So that is included within that timeframe. And the process is really that the remediation plan is completed internally and then gets independently reviewed, in what's just called an independent assurance process. So the first step is the Board of PCSIL sign the remediation plan off as having been fully implemented. It then goes through a kind of independent assurance process, which just validates that all the steps and changes have been made.*

J THE 26 APRIL 2022 DISCLOSURE AND ITS IMPACT

J.1 26 April 2022

198. On 26 April 2022, EML published a document to the ASX entitled "Q3 Trading Update and FY2022 Guidance Revision" (**26 April 2022 Announcement**).
199. In the 26 April 2022 Announcement, EML made the following statements:
- (a) GDV downgraded to \$79 billion - \$84 billion from \$81 billion to \$88 billion;
 - (b) Revenue was downgraded to \$225 million to \$235 million from \$230 million to \$250 million;
 - (c) EBITDA was downgraded to \$52 million to \$55 million from \$58 million to \$65 million, an 8% reduction; and
 - (d) NPATA was downgraded to \$27 million to \$30 million from \$27 million to \$34 million.

J.2 The price impact of the 26 April 2022 Announcement

200. Following the release of the 26 April 2022 Announcement, the price of EML Shares fell substantially.

PARTICULARS

- i. The price of EML Shares fell from a closing price of \$2.71 on 22 April 2022 to a closing price of \$1.665 on 26 April 2022.*

K THE 25 JULY 2022 DISCLOSURE AND ITS IMPACT

K.1 25 July 2022

201. On 25 July 2022, EML published a document to the ASX entitled “Central Bank of Ireland Update” (**25 July 2022 Announcement**).
202. In the 25 July 2022 Announcement, EML made the following statements:

EML’s Irish subsidiary, PFS Card Services (Ireland) Limited (‘PCSIL’), has been undertaking a remediation programme at the direction of Central Bank of Ireland since July 2021, with the assistance of external expert advisors. Whilst PCSIL has undertaken and completed significant work, there is more to do. The Central bank has constructively engaged with PCSIL and identified shortcomings in components of the remediation programme, principally the sequencing and approach taken to the risk assessment of its distributors, corporates and customers.

PCSIL will adopt a revised approach to these components and completion of this work may result in additional controls being embedded into the internal control framework. Many activities in preparation for third party assurance have already commenced and it is anticipated that the adjustments to the remediation programme will result in assurance being finalised in 2023.

PCSIL has been operating under a material growth limitation over its total payment volumes which is due to expire in early December 2022. While a further regulatory direction or limitation is unknown, EML’s new Managing Director and Group CEO Emma Shand and the Boards of both PCSIL and EML are actively engaging with the Central Bank of Ireland.

We welcome the European Central Bank’s decision on 21 July to raise the cash rate by 50 basis points which is expected to immediately benefit our European business by approximately \$4M on an annualised basis. EML expects a favourable interest rate environment to partially offset the elevated cost base in Europe due to the remediation programme.

EML is wholly committed to full compliance with its regulatory obligations. We are confident that a best-in-class internal control environment provides enhanced customer and stakeholder value and positions EML well for scalable and sustainable growth in Europe and beyond.

EML looks forward to further engagement with the investor community on release of our FY22 results on 22 August 2022. Details of EML's scheduled investor call were announced on the ASX platform on 20 July 2022.

K.2 Price impact of the 25 July 2022 Announcement

203. Following the release of the 25 July 2022 Announcement, the price of EML Shares fell substantially.

PARTICULARS

- i. The price of EML Shares fell from a closing price of \$1.950 on 22 July 2022 to a closing price of \$0.93 on 25 July 2022.*

L MISLEADING OR DECEPTIVE CONDUCT

L.1 First Guidance Ability Representation (18 August 2021)

204. By reason of the matters pleaded in paragraphs 180, 181 and 183 above, on and from 18 August 2021, EML represented to the Affected Market that EML was reliably able to give guidance as to earnings, profitability and growth, notwithstanding the AML/CTF regulatory concerns raised by the CBI with PCSIL, the implementation of PCSIL's remediation plan, and any material growth restrictions that may be imposed by the CBI (**First Guidance Ability Representation**).

PARTICULARS

- i. The First Guidance Ability Representation was implied from the express statements in the 17 August 2021 Presentation, the 17 August 2021 ASX Announcement, and the 18 August 2021 Investor Call.*

205. At all material times from 18 August 2021, alternatively at all material times from 18 August 2021 until 26 April 2022, further in the alternative from 18 August 2021 until 25 November 2021, EML continued to make the First Guidance Ability Representation.

PARTICULARS

- i. The continuing representation was implied by EML not saying anything during that period to modify, qualify, or contradict the First Guidance Ability Representation.*
- ii. The continuing representation was implied by EML giving further FY22 financial guidance on 17 November 2021 and 25 November 2021 and reaffirming that guidance 16 February 2022.*

206. The making and/or failing to correct and/or qualify the First Guidance Ability Representation was conduct engaged in by EML:
- (a) in trade or commerce; and
 - (b) in relation to EML Shares.
207. At all material times from 18 August 2021, (or alternatively, on and from each day after 18 August 2021), EML did not have a reasonable basis for making the First Guidance Ability Representation in the circumstances pleaded in paragraph 168 above.

PARTICULARS

- i. The particulars to paragraph 169 are repeated.*

208. At all material times from 18 August 2021, by making and/or failing to correct and/or qualify the First Guidance Ability Representation in circumstances pleaded in paragraph 168 above, EML engaged in conduct which was misleading or deceptive or likely to mislead or deceive.

PARTICULARS

- i. The particulars to paragraph 168 are repeated.*

209. By reason of the matters pleaded in:

- (a) paragraphs 204 to 207;
- (b) paragraphs 204 to 206 and 208; and/or
- (c) paragraphs 204 to 208,

EML contravened s 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the ACL (each being a **Misleading Conduct Contravention**).

L.2 Second Guidance Ability Representation (25 November 2021)

210. By reason of the matters pleaded in paragraphs 187 to 193 above, on and from 25 November 2021, EML represented to the Affected Market that EML was reliably able to give guidance as to earnings, profitability and growth, notwithstanding the AML/CTF regulatory concerns raised by the CBI with PCSIL, the implementation of PCSIL's remediation plan, and the material growth restrictions that had been imposed by the CBI (**Second Guidance Ability Representation**).

PARTICULARS

- i. The Second Guidance Ability Representation was implied from the express statements in the 2021 AGM and 25 November 2021 Announcement.*

211. At all material times from 25 November 2021, alternatively at all material times from 25 November 2021 until 26 April 2022, EML continued to make the Second Guidance Ability Representation.

PARTICULARS

- i. The continuing representation was implied by EML not saying anything during that period to modify, qualify, or contradict the Second Guidance Ability Representation.*
- ii. The continuing representation was implied by EML reaffirming that guidance 16 February 2022.*

212. The making and/or failing to correct and/or qualify the Second Guidance Ability Representation was conduct engaged in by EML:

- (a) in trade or commerce; and
- (b) in relation to EML Shares.

213. At all material times from 25 November 2021, EML did not have a reasonable basis for making the Second Guidance Ability Representation in the circumstances pleaded in paragraph 171 above.

PARTICULARS

- i. The particulars to paragraph 171 are repeated.*

214. At all material times from 25 November 2021, by making and/or failing to correct and/or qualify the Second Guidance Ability Representation in the circumstances pleaded in paragraph 171 above, EML engaged in conduct which was misleading or deceptive or likely to mislead or deceive.

PARTICULARS

- i. The particulars to paragraph 171 are repeated.*

215. By reason of the matters pleaded in:

- (a) paragraphs 210 to 214;
- (b) paragraphs 210 to 213 and 215; and/or

- (c) paragraphs 210 to 215,

EML contravened s 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the ACL (each being a Misleading Conduct Contravention).

L.3 August 2021 Remediation Timing Representation

216. By reason of the matters pleaded in paragraphs 180 to 183 above, on and from 18 August 2021, EML represented to the Affected Market that EML's remediation plan for PCSIL would be completed and finalised to the CBI's satisfaction before 31 March 2022 (and within FY22) (**August 2021 Remediation Timing Representation**).

PARTICULARS

- i. The August 2021 Remediation Timing Representation was express and implied from the statements in the 17 August 2021 Presentation, 17 August 2021 ASX Announcement, and the 18 August 2021 Investor Call.*
217. At all material times from 18 August 2021 until 16 February 2022, EML continued to make the August 2021 Remediation Timing Representation.

PARTICULARS

- i. The continuing representation was implied by EML not saying anything during that period to modify, qualify, or contradict the August 2021 Remediation Timing Representation.*
- ii. The continuing representation was implied by EML reaffirming that the timing of the remediation at the 2021 AGM.*
218. The making and/or failing to correct and/or qualify the August 2021 Remediation Timing Representation was conduct engaged in by EML:
- (a) in trade or commerce; and
- (b) in relation to EML Shares.

219. At all material times from 18 August 2021, EML did not have a reasonable basis for making the August 2021 Remediation Timing Representation in the circumstances pleaded in paragraph 167 above.

PARTICULARS

- i. The particulars to paragraph 167 are repeated.*
220. At all material times from 18 August 2021, by making and/or failing to correct and/or qualify the August 2021 Remediation Timing Representation in the circumstances pleaded in

paragraph 167 above, EML engaged in conduct which was misleading or deceptive or likely to mislead or deceive.

PARTICULARS

i. The particulars to paragraph 167 are repeated.

221. By reason of the matters pleaded in:

- (a) paragraphs 216 to 219;
- (b) paragraphs 216 to 218 and 220; and/or
- (c) paragraphs 216 to 220,

EML contravened s 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the ACL (each being a Misleading Conduct Contravention).

L.4 November 2021 Remediation/Growth Representations

222. By reason of the matters pleaded in paragraphs 187 to 193 above, on and from 25 November 2021, EML represented to the Affected Market that:

- (a) EML's remediation plan for PCSIL would be completed and finalised to the CBI's satisfaction before 31 March 2022 (and within FY22) (that is, a repetition of the August 2021 Remediation Timing Representation);
- (b) the material growth limitation imposed by the CBI on PCSIL:
 - (i) would be removed after completion and finalisation of PCSIL's remediation plan to the CBI's satisfaction, that is, from around December 2022 (or sooner); and
 - (ii) would not include a broad-based reduction in limits across existing programs,

(Growth Limitation Features Representation),

((a) and (b) together being **the November 2021 Remediation/Growth Representations**).

PARTICULARS

i. As to the repetition of the August 2021 Remediation Timing Representation, was express and implied from the statements in the 2021 AGM and 25 November 2021 Announcement).

- ii. *As to the Growth Limitation Features Representation, this was express and implied from the statements in the 2021 AGM and 25 November 2021 Announcement).*

223. At all material times from 25 November 2021 until 16 February 2022, EML continued to make the November 2021 Remediation/Growth Representations.

PARTICULARS

- i. *The continuing representation was implied by EML not saying anything during that period to modify, qualify, or contradict the November 2021 Remediation /Growth Representation.*

224. The making and/or failing to correct and/or qualify the November 2021 Remediation/Growth Representation was conduct engaged in by EML:

- (a) in trade or commerce; and
- (b) in relation to EML Shares.

225. At all material times from 25 November 2021, EML did not have a reasonable basis for making the November 2021 Remediation/Growth Representations in the circumstances pleaded in paragraphs 135, 167, 169 and/or 170 and/or 172 above.

PARTICULARS

- i. *The particulars to paragraphs 135, 167, 169, 170 and 172 are repeated.*

226. At all material times from 25 November 2021, by making/or failing to correct and/or qualify the November 2021 Remediation/Growth Representations in the circumstances pleaded in paragraphs 135, 167, 169 and/or 170 and/or 172 above, EML engaged in conduct which was misleading or deceptive or likely to mislead or deceive.

PARTICULARS

- i. *The particulars to paragraphs 135, 167, 169, 170 and 172 are repeated.*

227. By reason of the matters pleaded in:

- (a) paragraphs 222 to 225;
- (b) paragraphs 210 to 224 and 226; and/or
- (c) paragraphs 222 to 226,

EML contravened s 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the ACL (each being a Misleading Conduct Contravention).

L.5 February 2022 Remediation/Growth Representations

228. By reason of the matters pleaded in paragraphs 195 to 197 above, on and from 16 February 2022, EML represented to the Affected Market that:

- (a) EML's remediation plan for PCSIL would be completed and finalised to the CBI's satisfaction before 30 June 2022 (and within FY22) (**February 2022 Remediation Timing Representation**); and
- (b) the material growth limitation imposed by the CBI on PCSIL:
 - (i) would be removed after completion and finalisation of PCSIL's remediation plan to the CBI's satisfaction, that is, from around December 2022 (or sooner); and
 - (ii) would not include a broad-based reduction in limits across existing programs,

(that is, a repetition of the Growth Limitation Features Representation).

((a) and (b) together being the **February 2022 Remediation/Growth Representations**).

PARTICULARS

- i. As to the February 2022 Remediation Timing Representation, this was express and implied from the statements in 16 February 2022 Announcement, 16 February 2022 Presentation and the 16 February 2022 Investors Call*
- ii. As to the repetition of the Growth Limitation Features Representation, this was express and implied from the statements in 16 February 2022 Announcement, 16 February 2022 Presentation and the 16 February 2022 Investors Call and the failure to correct or qualify statements in the 2021 AGM and 25 November 2021 Announcement, and particular ii to paragraph 222 is repeated.*

229. At all material times from 16 February until 25 July 2022, EML continued to make the February 2022 Remediation/Growth Representations.

PARTICULARS

- i. The continuing representation was implied by EML not saying anything during that period to modify, qualify, or contradict the February 2022 Remediation/Growth Representations.*

230. The making and/or failing to correct and/or qualify February 2022 Remediation/Growth Representations was conduct engaged in by EML:

- (a) in trade or commerce; and
- (b) in relation to EML Shares.

231. At all material times from 16 February 2022, EML did not have a reasonable basis for making the February 2022 Remediation/Growth Representations in the circumstances pleaded in paragraphs 135, 169, 170 and 172 above.

PARTICULARS

- i. The particulars to paragraphs 169, 170 and 172 are repeated.*

232. At all material times from 16 February 2022, by making/or failing to correct and/or qualify the February 2022 Remediation/Growth Representations in the circumstances pleaded in paragraphs 135, 169, 170 and 172 above, EML engaged in conduct which was misleading or deceptive or likely to mislead or deceive.

PARTICULARS

- i. The particulars to paragraphs 169, 170 and 172 are repeated.*

233. By reason of the matters pleaded in:

- (a) paragraphs 228 to 231;
- (b) paragraphs 228 to 231 and 232; and/or
- (c) paragraphs 228 to 231,

EML contravened s 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the ACL (each being a Misleading Conduct Contravention).

M CONTINUOUS DISCLOSURE CONTRAVENTIONS

M.1 PCSIL Control Standard Information Contravention

234. During the First Relevant Period to 19 May 2021, the PCSIL Control Standard Information was information:

- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);

- (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and/or
- (c) which, between 19 December 2020 and 22 March 2021 (and to the extent relevant having regard to paragraph 5(e)(ii) above from 23 March 2021 to 16 May 2021), EML was negligent with respect to whether that information would have a material effect on the price or value of the EML Shares.

PARTICULARS

i. See Annexure A.

- 235. The PCSIL Control Standard Information was information that until 19 May 2021 was not generally available within the meaning of s 674(2)(c) of the Corporations Act.
- 236. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the PCSIL Control Standard Information on and from 19 December 2020.
- 237. EML did not communicate the PCSIL Control Standard Information to the ASX before 19 May 2021.
- 238. By reason of the matters pleaded in paragraphs 234 to 237 above, EML contravened s 674(2) of the Corporations Act during the First Relevant Period (being a **Continuous Disclosure Contravention**).

M.2 August Program Limits Information

- 239. During the Second Relevant Period from 18 August 2021 to 7 October 2021, the August Program Limits Information was information:
 - (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
 - (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
 - (c) which EML was negligent with respect to whether that information would have a material effect on the share price or value of the EML Shares.

PARTICULARS

i. See Annexure B.

- 240. The August Program Limits Information was information that until 7 October 2021 was:
 - (a) between 19 May 2021 and 13 August 2021, not generally available within the meaning of s 674(2)(c) of the Corporations Act; and

- (b) between 14 August 2021 and 7 October 2021, not generally available within the meaning of s 674A(2)(c) of the Corporations Act.
241. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the August Program Limits Information on and from 18 August 2021.
242. EML did not communicate the August Program Limits Information to the ASX before 7 October 2021.
243. By reason of the matters pleaded in paragraphs 239 to 242 above during the Second Relevant Period between 18 August 2021 and 6 October 2021, EML contravened s 674A(2) of the Corporations Act (each being a Continuous Disclosure Contravention).

M.3 Initial PCSIL Remediation Timing Information

244. During the Second Relevant Period from 18 August 2021 to 25 July 2022, the Initial PCSIL Remediation Timing Information was information:
- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
- (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
- (c) which EML was negligent with respect to whether that information would have a material effect on the price or value of EML Shares.

PARTICULARS

i. See Annexure C.

245. The Initial PCSIL Remediation Timing Information was information that until 25 July 2022 was not generally available within the meaning of s 674(2)(c) and/or or 674A(2)(c) of the Corporations Act.
246. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the Initial PCSIL Remediation Timing Information on and from 18 August 2021.
247. EML did not communicate the Initial PCSIL Remediation Timing Information to the ASX before 25 July 2022.
248. By reason of the matters pleaded in paragraphs 244 to 247 above during the Second Relevant Period, EML contravened s 674A(2) of the Corporations Act (each being a Continuous Disclosure Contravention).

M.4 First Guidance Inability Information

249. During the Second Relevant Period from 18 August 2021 to 26 April 2022, the First Guidance Inability Information was information:

- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
- (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
- (c) which EML was negligent with respect to whether that information would have a material effect on the price or value of the EML Shares.

PARTICULARS

i. See Annexure D.

250. The First Guidance Inability Information was information that until 26 April 2022 was not generally available within the meaning of s 674A(2)(c) of the Corporations Act.

251. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the First Guidance Inability Information on and from 18 August 2021.

252. EML did not communicate the First Guidance Inability Information to the ASX before 26 April 2022.

253. By reason of the matters pleaded in paragraphs 249 to 252 above, EML contravened s 674A(2) of the Corporations Act during the Second Relevant Period between 18 August 2021 and 26 April 2022 (being a Continuous Disclosure Contravention).

M.5 November Program Limits Information

254. During the Second Relevant Period from 25 November 2021, the November Program Limits Information was information:

- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
- (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
- (c) which EML was negligent with respect to whether that information would have a material effect on the price or value of the EML Shares.

PARTICULARS

i. See Annexure E.

255. The November Program Limits Information was information that was not generally available within the meaning of s 674A(2)(c) of the Corporations Act from 25 November 2021 until the end of the Second Relevant Period.
256. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the November Program Limits Information on and from 25 November 2021.
257. EML did not communicate the November Program Limits Information to the ASX during the Second Relevant Period.
258. By reason of the matters pleaded in paragraphs 254 to 257 above, EML contravened s 674A(2) of the Corporations Act during the Second Relevant Period from 25 November 2021 (being a Continuous Disclosure Contravention).

M.6 PCSIL Growth Impact Timing Information

259. During the Second Relevant Period from 25 November 2021, the PCSIL Growth Impact Timing Information was information:
- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
 - (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
 - (c) which EML was negligent with respect to whether that information would have a material effect on the price or value of the EML Shares.

PARTICULARS

i. See Annexure F.

260. The PCSIL Growth Impact Timing Information was information that until 25 July 2022 was not generally available within the meaning of s 674A(2)(c) of the Corporations Act.
261. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the PCSIL Growth Impact Timing Information on and from 25 November 2021.
262. EML did not communicate the PCSIL Growth Impact Timing Information to the ASX before 25 July 2022.
263. By reason of the matters pleaded in paragraphs 259 to 262 above, EML contravened s 674A(2) of the Corporations Act during the Second Relevant Period from 25 November 2021 (being a Continuous Disclosure Contravention).

M.7 Second Guidance Inability Information

264. During the Second Relevant Period from 25 November 2021, the Second Guidance Inability Information was information:
- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
 - (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
 - (c) which EML was negligent with respect to whether that information would have a material effect on the price or value of the EML Shares.

PARTICULARS

i. See Annexure G.

265. The Second Guidance Inability Information was information that until 26 April 2022 was not generally available within the meaning of s 674A(2)(c) of the Corporations Act.
266. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the Second Guidance Inability Information on and from 25 November 2021.
267. EML did not communicate the Second Guidance Inability Information to the ASX before 26 April 2022.
268. By reason of the matters pleaded in paragraphs 264 to 267 above, EML contravened s 674A(2) of the Corporations Act during the Second Relevant Period from 25 November 2021 (being a Continuous Disclosure Contravention).

M.8 Revised PCSIL Remediation Timing Information

269. During the Second Relevant Period from 16 February 2022 to 25 July 2022, the Revised PCSIL Remediation Timing Information was information:
- (a) of which EML was aware (within the meaning of ASX Listing Rule 19.12);
 - (b) that a reasonable person would expect to have a material effect on the price or value of EML Shares; and
 - (c) which EML was negligent with respect to whether that information would have a material effect on the price or value of the EML Shares.

PARTICULARS

i. See Annexure H.

270. The Revised PCSIL Remediation Timing Information was information that until 25 July 2022 was not generally available within the meaning of s 674A(2)(c) of the Corporations Act.
271. Pursuant to ASX Listing Rule 3.1, EML became obliged to tell the ASX the Revised PCSIL Remediation Timing Information on and from 16 February 2022.
272. EML did not communicate the Revised PCSIL Remediation Timing Information to the ASX before 25 July 2022.
273. By reason of the matters pleaded in paragraphs 269 to 272 above, EML contravened s 674A(2) of the Corporations Act during the Second Relevant Period from 16 February 2022 (being a Continuous Disclosure Contravention).

N CONTRAVENING CONDUCT CAUSED GROUP MEMBERS' LOSS

N.1 Acquisition of EML Shares

274. During the Relevant Periods, the plaintiffs and the Group Members acquired interests in EML Shares.

PARTICULARS

- i. Paragraph 2 above is repeated.*
- ii. Particulars of acquisitions by Group Members will be provided after the trial of the plaintiffs' claim.*

N.2 Market-based causation

275. The plaintiffs and the Group Members acquired their interests in EML Shares in a market of investors or potential investors in EML Shares:
- (a) operated by the ASX;
 - (b) regulated by, inter alia, the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act;
 - (c) where EML had the obligations pleaded in paragraphs 5 and 6 above;
 - (d) where the price or value of EML Shares would reasonably be expected to have been informed or affected by information disclosed in accordance with the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act;

- (e) where:
- (i) material information had not been disclosed at the time it ought to have been disclosed, which a reasonable person would expect, had it been disclosed, would have had a material effect on the price or value of EML Shares, namely:
 - (ii) the information the subject of the Continuous Disclosure Contraventions; and/or
 - (iii) information correcting or qualifying the representations the subject of the Misleading Conduct Contraventions (individually and together, the **Material Representations**),

(individually and together, the **Material Information**);
- (f) misleading or deceptive conduct had been engaged in (namely the conduct the subject of the Misleading Conduct Contraventions) that a reasonable person would expect to have a material effect on the price or value of EML Shares, in that if it had not been engaged in no investors or potential investors in EML Shares would have been in a position to read or rely upon the Misleading Representations.

276. In:

- (a) the First Relevant Period, the Continuous Disclosure Contravention in respect of the PCSIL Control Standard Information; and
- (b) the Second Relevant Period, the Continuous Disclosure Contraventions (other than the Continuous Disclosure Contravention in respect of the PCSIL Control Standard Information) and/or the Misleading Conduct Contraventions (and each of them),

(each being a **Market Contraventions**) caused the market price of EML Shares to be, or materially contributed to the market price of EML Shares being, substantially greater than:

- (i) their true value; and/or
- (ii) the market price that would have prevailed but for the Market Contraventions,

from the respective dates that those Market Contraventions commenced, as pleaded in this Further Amended Statement of Claim.

PARTICULARS

- i. The extent to which the Market Contraventions caused the price for EML Shares to be substantially greater than their true value and/or the market price that would otherwise have prevailed during the Relevant Periods is estimated in the report of Torben Voetmann served together with this Further Amended Statement of Claim (**Voetmann Report**).*
- ii. The Plaintiffs also say that the precise extent by which the price for EML Shares was greater than their true value and/or the market price that would otherwise have prevailed is not required in order to establish causation of loss.*

277. The declines and increases in the price of EML Shares pleaded in:

- (a) paragraph 176 above was caused or materially contributed to by the market's reaction to:
 - (i) the information contained in the 19 May 2021 Announcement; and
 - (ii) the Continuous Disclosure Contravention in respect of the PCSIL Control Standard Information, being Market Contraventions which commenced prior to, and was continuing as at, 19 May 2021;
- (b) paragraph 186 above was caused or materially contributed to by the market's reaction to:
 - (i) the information contained in the 7 October 2021 Announcement; and
 - (ii) certain of the Market Contraventions which commenced prior to, and were continuing as at 7 October 2021;
- (c) paragraph 194 above was caused or materially contributed to by the market's reaction to:
 - (i) the information contained in the 25 November 2021 Announcement; and
 - (ii) certain of the Market Contraventions which commenced prior to or on, and were continuing as at 25 November 2021;
- (d) paragraph 200 above was caused or materially contributed to by the market's reaction to:
 - (i) the information contained in the 26 April 2022 Announcement; and
 - (ii) certain of the Market Contraventions which commenced prior to, and were continuing as at 26 April 2022;

- (e) paragraph 203 above was caused or materially contributed to by the market's reaction to:
- (i) the information contained in the 25 July 2022 Announcement; and
 - (ii) certain of the Market Contraventions which commenced prior to, and were continuing as at, 25 July 2022.

PARTICULARS

- i. The extent to which the Market Contraventions caused the price for EML Shares to decline is estimated in the Voetmann Report.*
- ii. The Plaintiffs also say that the precise extent by which the price for EML Shares would have declined is not required in order to establish causation of loss.*

278. Further, or alternatively to paragraph 277, if EML had:

- (a) disclosed to the market the Material Information at any time prior to when it was disclosed or revealed to the Affected Market; and/or
 - (b) not engaged in the conduct the subject of the Misleading Conduct Contraventions,
- the price of EML Shares would have fallen substantially.

PARTICULARS

- i. The extent to which the price for EML Shares would have fallen is estimated in the Voetmann Report.*
- ii. The Plaintiffs also say that the precise extent by which the price for EML Shares would have declined is not required in order to establish causation of loss.*

N.3 Reliance

279. Further, or in the alternative, in the decision to acquire EML Shares:

- (a) some Group Members would not have acquired EML Shares at the prices and in the volumes that they did, if the Material Information had been disclosed to them and/or the ASX;
- (b) some Group Members acquired EML Shares at the prices and in the volumes that they did in reliance upon some or all of the Material Representations (and/or EML not having corrected or qualified such representations).

PARTICULARS

- i. The identity of all those Group Members which or who relied directly on any or all of the representations referred to in the*

paragraph above are not within the current state of the plaintiffs' knowledge and cannot be ascertained unless and until those advising the plaintiffs take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims. Those instructions will be obtained (and particulars of the identities of those Group Members will be provided) following opt-out, the determination of the plaintiffs' claims and identification of common issues at an initial trial and if and when it is necessary for a determination to be made of the individual claims of those Group Members.

N.4 Loss and damage

280. The plaintiffs and the Group Members suffered loss and damage resulting from the Market Contraventions.

PARTICULARS

- i. The loss suffered by the plaintiffs will be calculated by reference to:

 - A. the difference between the price at which they acquired their interest in the EML Shares and the true value of that interest;*
 - B. alternatively, the difference between the price at which they acquired its interest in the EML Shares and whatever is 'left in hand', or has been realised upon a sale;*
 - C. alternatively, the difference between the price at which they acquired their interest in the EML Shares and whatever is 'left in hand', or has been realised upon a sale modified to take into account any part of the movement in the market price of the shares which did not 'result from' the contravening conduct;*
 - D. alternatively, the difference between the price at which they acquired their interest in the EML Shares and the price that would have prevailed but for the Market Contraventions;**

- ii. The plaintiffs claim losses:

 - A. for the purposes of loss measure (A) and (D) above on the basis of the estimates of share price inflation as at 12 May 2021 contained in the Voetmann Report.*
 - B. for the purposes of loss measure (B) of the difference between the purchase consideration they paid of \$54,708.50 (net of brokerage) and the sale consideration they received of \$31,813.49 (net of brokerage), namely \$22,895.01*
 - C. For the purposes of loss measure (C), on the basis of the estimate of the statistically significant share price decline following the 19 May Announcement contained in the Voetmann Report.**

The Plaintiffs also say that the precise extent by which the price for EML Shares would have declined is not required, and that the Court is entitled to estimate loss on the basis of all evidence

tendered at trial, in circumstances where there is a principle that where measurement of loss is made more difficult by the effects of the contravening conduct, the Court should assess loss in a robust manner relying on presumptions against the contravenor.

- iii. Particulars of the losses of Group Members are not known within the current state of the plaintiffs' knowledge and cannot be ascertained unless and until those advising the plaintiffs take detailed instructions from all Group Members on individual issues relevant to the determination of those individual Group Members' claims; those instructions will be obtained (and particulars of the losses of those Group Members will be provided) following opt out, the determination of the plaintiffs' claim and identified common' issues at an initial trial and if and when it is necessary for a determination to be made of the individual claims of those Group Members.*

O COMMON QUESTIONS

The questions of law or fact common to the claims of the plaintiffs and Group Members are:

1. Whether EML made and continued during the Second Relevant Period to make the:
 - (a) First Guidance Ability Representation;
 - (b) Second Guidance Ability Representation;
 - (c) August 2021 Remediation Timing Representation;
 - (d) November 2021 Remediation/Growth Representations; and
 - (e) February 2022 Remediation/Growth Representations

2. Whether the following matters occurred and/or are true:
 - (a) the matters pleaded in Part D (Key Events)
 - (b) the matters pleaded in Part E (The True Position and Information)

3. Whether EML contravened s 1041H of the Corporations Act, s 12DA of the ASIC Act and s 18 of the ACL by making, maintaining and/or failing to qualify the:
 - (a) First Guidance Ability Representation;
 - (b) Second Guidance Ability Representation;
 - (c) First Remediation Timing Representation;

- (d) November 2021 Remediation/Growth Representation; and
 - (e) February 2022 Remediation/Growth Representation;
4. Whether and when EML knew or ought to have known the:
- (a) PCSIL Control Standard Information;
 - (b) August Program Limits Information;
 - (c) Initial PCSIL Remediation Timing Information;
 - (d) First Guidance Inability Information;
 - (e) November Program Limits Information;
 - (f) PCSIL Growth Impact Timing Information;
 - (g) Second Guidance Inability Information; and
 - (h) Revised PCSIL Remediation Timing Information;
5. Whether the:
- (a) PCSIL Control Standard Information;
 - (b) August Program Limits Information;
 - (c) Initial PCSIL Remediation Timing Information;
 - (d) First Guidance Inability Information;
 - (e) November Program Limits Information;
 - (f) PCSIL Growth Impact Timing Information;
 - (g) Second Guidance Inability Information; and
 - (h) Revised PCSIL Remediation Timing Information,
- was information a reasonable person would expect to have a material effect on the value of EML Shares.

6. Whether the:

- (a) PCSIL Control Standard Information (up to 22 March 2021);
- (b) August Program Limits Information;
- (c) Initial PCSIL Remediation Timing Information;
- (d) First Guidance Inability Information;
- (e) November Program Limits Information;
- (f) PCSIL Growth Impact Timing Information;
- (g) Second Guidance Inability Information; and
- (h) Revised PCSIL Remediation Timing Information,

was information that EML was negligent with respect to whether it would have a material effect on the price or value of the EML Shares.

7. Whether the:

- (a) PCSIL Control Standard Information;
- (b) August Program Limits Information;
- (c) Initial PCSIL Remediation Timing Information;
- (d) First Guidance Inability Information;
- (e) Program Limit Information;
- (f) PCSIL Growth Impact Timing Information;
- (g) Second Guidance Inability Information; and
- (h) Revised PCSIL Remediation Timing Information,

was not generally available.

8. When EML was obliged to disclose to the ASX the:

- (a) PCSIL Control Standard Information;
- (b) August Program Limits Information;

- (c) Initial PCSIL Remediation Timing Information;
- (d) First Guidance Inability Information;
- (e) Program Limit Information;
- (f) PCSIL Growth Impact Timing Information;
- (g) Second Guidance Inability Information; and
- (h) Revised PCSIL Remediation Timing Information,

and contravened s 674(2) and/or s 674A(2) of the Corporations Act by failing to do so.

9. Whether any of the Market Contraventions caused the price or value of EML Shares to be higher during the Relevant Periods than they would have been had the Market Contraventions not occurred, and if so, to what extent or by what amount.
10. Whether any, and if so, what relief other than monetary relief should be granted in favour of the Plaintiffs and Group Members.

AND THE PLAINTIFF CLAIMS on their own behalf and on behalf of Group Members:

1. An order pursuant to s 1041I of the Corporations Act that the Defendant pay compensation to the Plaintiffs and Group Members for damage caused by the conduct of the Defendant in contravention of s 1041H of the Corporations Act;
2. An order pursuant to s 12GF of the ASIC Act that the Defendant pay compensation to the Plaintiffs and Group Members for damage caused by the conduct of the Defendant in contravention of s 12DA(1) of the ASIC Act.
3. An order pursuant to s 236 of the ACL that the Defendant pay compensation to the Plaintiffs and Group Members for damage caused by the conduct of the Defendant in contravention of s 18 of the ACL.
4. An order pursuant to s 1317HA(1) and/or s 1325 of the Corporations Act that the Defendant pay compensation to the Plaintiffs and Group Members for damage caused by the conduct of the Defendant in contravention of s 674(2) of the Corporations Act.
5. An order pursuant to s 1317HA(1) and/or s 1325 of the Corporations Act that the Defendant pay compensation to the Plaintiffs and Group Members for the damage caused by the conduct of the Defendant in contravention of s 674A(2) of the Corporations Act.

6. Interest pursuant to statute on any damages, compensation or monetary sum awarded.
7. Costs.

Date: 24 February 2025



Signed by Jonathan Wertheim
Lawyer for the Plaintiffs

W A D Edwards
R J May
O T D Nanlohy
Counsel for the Plaintiffs

Shine Lawyers
Solicitors for the Plaintiffs

Annexure A (PCSIL Control Standard Information)

As to paragraph 234(a):

Cregan

A1. Cregan had actual knowledge:

- (a) by at least 31 March 2020 from EML's due diligence as part of the acquisition of PFS that:
 - (i) PFS' risk and compliance team were "extremely dysfunctional";
 - (ii) "based on my DD report the focus is going to be very much regulatory focused and having the right people in the right roles. The business has no risk management focus as you are already aware" [EML.0113.0003.5365];
 - (iii) certain AML/CTF controls and procedures were inadequate and deficient;
 - (iv) PFS was at risk of losing EMI authorisation from the FCA;
- (b) by at least 1 April 2020 that MasterCard considered, and EML accepted, that PFS ran "fast and loose" when it came to risk and compliance [EML.0098.0032.7981];
- (c) by at least 18 August 2020 from the Audit and Risk Committee meeting on that date that:
 - (i) the two most significant risks relating to EML were:
 - (A) PFS' AML/CTF risk and control framework; and
 - (B) ensuring appropriate governance structures were in place for PFS; and
 - (ii) following an investigation and fine by the French regulator, PFS has conceded that it would need to disclose additional AML/CTF breaches;
 - (iii) PFS has known system errors that can result in a politically exposed person and sanction screening not being accurately completed;
 - (iv) there are known issues with the reliability of PFS' know your customer checks;
 - (v) PFS risk further fines and sanctions from regulators including potentially the CBI;

- (vi) given the “widespread” nature of these AML breaches, it is plausible that a regulator may deem these to be systemic AML failures which may in turn have licensing and commercial implications;
 - (vii) that these risks required attention to ensure they would not be considered by regulators to be systemic issues;
 - (viii) PFS failed to correctly maintain its current lodgements with the CBI in respect of senior management/leadership;
 - (ix) PFS acknowledge that it was “ill-equipped” to properly understand all of the regulation in the markets in which it operates;
 - (x) there is a possibility that regulatory licences could be withdrawn by the CBI if issues are not resolved;
- (d) by at least 20 August 2020 from ‘Risk Reporting’ updates [e.g. EML.0098.0035.2478] that:
- (i) there was inadequate corporate governance of PCSIL and PFS which could have major consequences including financial losses, regulatory fines, or revocations of licences;
 - (ii) there had been a system failure in the sanction and politically exposed person screening system;
 - (iii) that AML system checks were being completed manually; and
 - (iv) that a number of items had an “inherent risk rating” of “extreme”;
 - (v) that the FCA was “still refusing to let us sign distributors” [EML.0098.0029.7039];
- (e) by on or around 23 September 2020 from the 23 September 2020 Report that:
- (i) PFS had not carried out, and appeared to have never carried out, AML/CTF risk assessments on a regular periodic basis;
 - (ii) the CBI considered that there were deficiencies in PFS’ AML/CTF policies and procedures;
 - (iii) the CBI was not satisfied that PFS’ customer due diligence was adequate; and

- (iv) CBI was not satisfied that PFS' suspicious transaction reporting function was adequate;
- (f) by on or around 22 October 2020 from the 22 October 2020 Email that PCSIL had not filled various required personnel and officer roles;
- (g) by at least 20 November 2020 from Gadiot that PFS' risk and compliance department was "extremely under resourced" and "the base is shaky at best" [EML.0098.0214.8573; EML.0098.0214.8575];
- (h) by on or around 17 December 2020, that:
 - (i) PFS- EML integration, regulators and Brexit were a "Focus Point";
 - (ii) a risk register for PFS was "in progress";
 - (iii) "Key Risk Indicators" were being "further refined"; and
 - (iv) AML, KYC and KYB outsourced systems were being implemented but were not yet operational [EML.0001.0015.8531].
- (i) by at least 19 December 2020, from the weekly meetings attended by the CEO of PFS, CEO, CRO and CFO of EML, which were convened to discuss risk areas of PFS and/or PCSIL and the proposed remediation actions, the matters set out in subparagraphs (a) to (g) above;
- (j) by on or around 13 May 2021, of the matters in the First 13 May 2021 CBI Letter;

A2. Based on:

- (a) Cregan's actual knowledge;
- (b) his role as Managing Director and Group Chief Executive Officer; and/or
- (c) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information on and from 19 December 2020 (or alternatively from each date after 19 December 2020 until 19 May 2021). To the extent particulars are given by reference to documents post-dating 19 December 2020, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- A3. Because Cregan ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (b) of that information, given that in his role as Managing Director and Group Chief Executive Officer he ought to have become aware of the identity of the regulator of PCSIL and the range of regulatory consequences which were available to it pursuant to s 45 of the Central Bank Act
- A4. Because Cregan ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (c) of that information, given that in his role as Managing Director and Group Chief Executive Officer he ought to have formed the view that significant deficiencies in the AML/CTF risk and control frameworks and governance of PCSIL needed to be addressed to mitigate regulatory consequences to EML and ensure its compliant operation going forward, and that this may require co-operation with the regulator CBI.

Shore

- A5. Shore had actual knowledge:
- (a) by the dates particularised in subparagraphs A1(a) and A1(c), of the matters particularised therein, for the reasons there particularised;
 - (b) by at least 19 December 2020, from the weekly meetings attended by the CEO of PFS, CEO, CRO and CFO of EML, which were convened to discuss risk areas of PFS and/or PCSIL and the proposed remediation actions, of the matters set out in subparagraphs A1(a) to A1(g) above.
- A6. Based on:
- (a) Shore's actual knowledge;
 - (b) his role as Group Chief Financial Officer; and/or
 - (c) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the PCSIL Control Standard Information on and from 19 December 2020 (or alternatively from each date after 19 December 2020 until 19 May 2021). To the extent particulars are given by reference to documents post-dating 19 December 2020, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- A7. Because Shore ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of

subparagraph (b) of that information, given that in his role as Chief Finance Officer he ought to have become aware of the identity of the regulator of PCSIL and the range of regulatory consequences which were available to it pursuant to s 45 of the Central Bank Act, including the potential financial consequences for EML from revocation of PCSIL and/or PFS licences, the potential for directions to limit growth, and/or pecuniary penalties for non-compliance.

- A8. Because Shore ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (c) of that information, given that in his role as Chief Financial Officer he ought to have formed the view that significant deficiencies in the AML/CTF risk and control frameworks and governance of PCSIL needed to be addressed to mitigate regulatory consequences to EML and ensure its compliant operation going forward, and that this may require co-operation with the regulator CBI, and may require expenditure on the part of EML to remediate the deficiencies, ensure ongoing adequate resources were made available for PCSIL's compliance requirements, and/or pay pecuniary penalties for non-compliance, and that, as a result, provisions and/or budget decisions would need to be made.

Betts

- A9. Betts had actual knowledge:
- (a) by the dates of the matters particularised in subparagraphs A1(a) to A1(g), of the matters particularised therein, for the reasons there particularised;
 - (b) that by on or around 25 June 2020, Betts had directed employees of PFS and/or PCSIL to prepare a "risk tracker" which identified:
 - (i) the extent of regulatory non-compliance applicable to the AML/CTF risk and control frameworks and/or compliance and governance functions of PFS and/or PCSIL;
 - (ii) the deficiencies of the systems, procedures and policies of the AML/CTF risk and control framework,

such that qualitative risk factors could be ascribed to each issue;
 - (c) by 5 October 2020, of the corporate governance positions that PCSIL had not filled and the items from the 2018 and 2019 CBI inspections of PFS that had not been remediated;

- (d) by at least 19 December 2020, from the weekly meetings attended by the CEO of PFS, CEO, CRO and CFO of EML, which were convened to discuss risk areas of PFS and/or PCSIL and the proposed remediation actions, the matters set out in subparagraphs A1(a) to A1(g) above;
- (e) by at least 12 April 2021, from Gadiot, that the CBI had informed representatives of PCSIL that there was inadequate customer risk assessment, inadequate program onboarding risk assessment, inadequate ongoing due diligence / oversight on programs and that the CBI held “concerns” and “grave concerns” about parts of PCSIL’s AML/CTF controls and frameworks; and
- (f) by on or around 7 May 2021, of the matters in the 7 May 2021 Letter.

A10. Based on:

- (a) Betts’ actual knowledge;
- (b) his role as EML’s Group Chief Risk Officer;
- (c) his role as interim director of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Betts ought to have been aware of the PCSIL Control Standard Information on and from 19 December 2020 (or alternatively from each date after 19 December 2020 until 19 May 2021). To the extent particulars are given by reference to documents post-dating 19 December 2020, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- A11. Because Betts ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (b) of that information, given that in his role as EML Group Chief Risk Officer, and in his role as interim director of PCSIL, he ought to have become aware of the identity of the regulator of PCSIL and the range of regulatory consequences which were available to it pursuant to s 45 of the Central Bank Act.
- A12. Because Betts ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (c) of that information, given that in his role as EML Group Chief Risk Officer, and in his role as interim director of PCSIL, he ought to have formed the view that significant deficiencies in the AML/CTF risk and control frameworks and governance of

PCSIL needed to be addressed to mitigate regulatory consequences to EML and ensure its compliant operation going forward, and that this may require co-operation with the CBI.

Gadiot

A13. Gadiot had actual knowledge:

- (a) by the dates of the matters particularised in subparagraphs A1(d) to A1(g), of the matters particularised therein, for the reasons there particularised;
- (b) on or about 1 January 2021, Gadiot presented to the Business Risk and Compliance Committee of PCSIL, which presentation stated that:
 - (i) the risk register, which was prepared no later than 17 December 2020, and which was required by the CBI under the CBI Authorisation, was “incorrect, incomplete”, caused “incorrect reporting” and would result in “regulatory challenge”; and
 - (ii) the compliance function was not keeping up with the growth of PFS and/or PCSIL;
- (c) on or about 20 January 2021, Gadiot was informed that the deficiencies in PCSIL’s AML/CTF risk and control framework included:
 - (i) the improper AML/CTF risk categorisation of PCSIL products and services;
 - (ii) the ‘Politically Exposed Persons’ and sanctions screening process was materially inadequate in identifying sanctioned persons, such that persons the subject of various sanctions in the EU were using or had used PFS and/or PCSIL products and services;
 - (iii) there were material gaps for AML transaction reporting relating to PFS and/or PCSIL’s voucher products;
 - (iv) second line defence checks were not completed;
 - (v) there was limited and/or deficient oversight of AML/CTF functions conducted by third party service providers to PFS and/or PCSIL;
 - (vi) there was limited and/or inadequate documentation of outsourcing arrangements for risk and compliance; and

- (vii) AML/CTF policies and procedures were not reviewed on at least an annual basis [EML.0001.0013.8979]; and
- (d) by no later than 23 March 2021, that the CBI's inspection of PCSIL's AML/CTF control frameworks and/or governance and compliance functions was likely to result in "significant findings" [EML.0001.0002.4026_4060].
- (e) by at least 8 April 2021, that the CBI had informed representatives of PCSIL that there was inadequate customer risk assessment, inadequate program onboarding risk assessment, inadequate ongoing due diligence / oversight on programs and that the CBI held "concerns" and "grave concerns" about parts of PCSIL's AML/CTF controls and frameworks.

A14. Based on:

- (a) Gadiot's actual knowledge;
- (b) his role as Chief Risk Officer EML Europe;
- (c) his role as Director of Risk and Compliance of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Gadiot ought to have been aware of the PCSIL Control Standard Information on and from 19 December 2020 (or alternatively from each date after 19 December 2020 until 19 May 2021). To the extent particulars are given by reference to documents post-dating 19 December 2020, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

A15. Because Gadiot ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (b) of that information, given that in his role as Chief Risk Officer EML Europe, and in his role as Director of Risk and Compliance of PCSIL, he ought to have become aware of the identity of the regulator of PCSIL and the range of regulatory consequences which were available to it pursuant to s 45 of the Central Bank Act.

A16. Because Gadiot ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (c) of that information, given that in his role as EML Group Chief Risk Officer, and in his role as interim director of PCSIL, he ought to have formed the view that significant deficiencies in the AML/CTF risk and control frameworks and governance of

PCSIL needed to be addressed to mitigate regulatory consequences to EML and ensure its compliant operation going forward, and that this may require co-operation with the CBI.

Wenk

A17. Wenk had actual knowledge by the dates of the matters particularised in subparagraphs A1(a), and A1(c) to A1(d), of the matters particularised therein, for the reasons there particularised.

A18. Based on:

- (a) Wenk's actual knowledge;
- (b) his role as EML's Group General Counsel;
- (c) his role as EML's joint company secretary; and/or

adequate compliance and reporting structures within EML,

Wenk ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information on and from 19 December 2020 (or alternatively from each date after 19 December 2020 until 19 May 2021). To the extent particulars are given by reference to documents post-dating 19 December 2020, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

A19. Because Wenk ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (b) of that information, given that in his role as EML's Group General Counsel, and in his role as EML's joint company secretary, he ought to have become aware of the identity of the regulator of PCSIL and the range of regulatory consequences which were available to it pursuant to s 45 of the Central Bank Act.

A20. Because Wenk ought to have been aware of subparagraph (a) of the PCSIL Control Standard Information (as particularised above), he ought also to have been aware of subparagraph (c) of that information, given that in his role as EML's Group General Counsel, and in his role as EML's joint company secretary, he ought to have formed the view that significant deficiencies in the AML/CTF risk and control frameworks and governance of PCSIL needed to be addressed to mitigate regulatory consequences to EML and ensure its compliant operation going forward, and that this may require co-operation with the CBI.

As to paragraph 234(c):

- A21. Prior to 19 May 2021, EML had made the statements pleaded in paragraphs 57 and 61(e).
- A22. Each of the statements set out in paragraph A21 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- A23. The PCSIL Control Standard Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraph A21 above.
- A24. EML's directors and officers knew that it made the statements set out in paragraph A21 above, that they had been made to the Affected Market as set out in paragraph A22 above, and having regard to the inherent nature of the PCSIL Control Standard Information (being information of which they ought to have been aware, and particulars A1 to A20 are repeated) ought reasonably to have known that its disclosure would be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- A25. Alternatively, during the First Relevant Period to 19 May 2021:
- (a) some of EML's directors and officers had actual knowledge of the matters set out above in paragraphs A1, A5, A9, A13 and A17.
 - (b) Having regard to paragraph A24 above, EML's directors and officers who had the actual knowledge as set out in paragraph A25(a) above failed to:
 - (i) consider whether their actual knowledge gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
 - (ii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

- A26. Alternatively, having regard to paragraph A24 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge as set out above in paragraphs A1, A5, A9, A13 and A17 above:
- (a) considered whether their actual knowledge gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
 - (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether their actual knowledge gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares.
- A27. Alternatively, having regard to paragraph A24 above, EML's directors and officers who did not have actual knowledge as set out in paragraph A25 above failed to obtain that information which they ought to have obtained in the course of their duties and:
- (a) consider whether it gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
 - (b) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing PCSIL Standard Control Information to be disclosed.
- A28. Alternatively, having regard to paragraph A24 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge (as set out in paragraph A25 above) obtained that information which they ought to have obtained in the course of their duties and:
- (a) considered whether their knowledge so obtained gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and

- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the PCSIL Control Standard Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares.

Annexure B (August Program Limits Information)

As to paragraph 259(a):

Cregan

B1. Cregan had actual knowledge:

- (a) by on or around 7 May 2021 from the 7 May 2021 Letter the nature and extent of the CBI's concerns about PCSIL's governance, internal controls and risk management arrangements as set out in the 7 May 2021 Letter and that PCSIL was required to undertake immediate remediate action in respect of those concerns;
- (b) by on or around 13 May 2021 from the First 13 May 2021 Letter the nature and extent of the CBI's concerns about PCSIL's governance, internal controls and risk management arrangements as set out in the First 13 May 2021 Letter;
- (c) by on or around 13 May 2021 from the Second 13 May 2021 Letter the nature and extent of the CBI's concerns about governance, internal controls and risk management arrangements as set out in the Second 13 May 2021 Letter;
- (d) by on or about 17 May 2021 from the 17 May 2021 Letter that the CBI had significant concerns that PCSIL had grown its business volumes materially faster than outlined in its application for authorisation and that the CBI was not satisfied that PCSIL's governance arrangements remained comprehensive or proportionate to the volume of activity conducted by PCSIL;
- (e) by on or about 24 May 2021 that the CBI had informed PCSIL that it could not notify the CBI of new distributors until it had concluded its investigation;
- (f) by on or about 9 June 2021 from the 9 June 2021 Email that the CBI was of the view that it would not be appropriate for PCSIL to submit new distributor notifications to the CBI and that it was the CBI's expectation that PCSIL should be seeking to address control deficiencies rather than further business expansion;
- (g) by on or about 30 June 2021 from the 30 June 2021 Letter that the CBI's position was that it would not be prudent for PCSIL to appoint additional distributors given the CBI's expectation that PCSIL should focus on the development and implementation of a remediation plan rather than materially growing its business and any such applications would be considered by the CBI but assessed in the overall context, including the CBI's concerns regarding PCSIL;

- (h) by on or about 5 July 2021 from the 5 July 2021 Letter that:
 - (i) the CBI expected PCSIL to outline in its proposed remediation plan how it would ensure that the business did not grow materially until the CBI was satisfied that any agreed remediation plan had been implemented effectively and that consequently the necessary risk management and governance frameworks were in place to effectively manage material growth;
 - (ii) in assessing any new distributor notifications, the CBI would take into account the overall context, including the CBI's concerns regarding PCSIL and the CBI's view that PCSIL should not materially grow its business pending implementation of a remediation plan;
 - (iii) the CBI expected PCSIL to ensure as a matter of priority that transaction limits are set at levels that can assist in the reduction of ML/TF risk exposure and the generation of appropriate triggers, and that the CBI was not satisfied that PCSIL's transaction limits can adequately achieve this, and that the CBI expected PCSIL to undertake, as a priority item, a review of its current card limits across all programs with a view to recalibrating limits so that they reduced ML/TF risk until an acceptable level of remediation is achieved;
- (i) by on or about 9 July 2021, the findings in the Final POR;
- (j) by on or about 20 July 2021, the findings contained in the Draft EY Report;
- (k) by on or about 27 July 2021, that:
 - (i) the regulatory burden imposed by the CBI was "incompatible with [EML and/or PCSIL's] role as a high growth fintech/ payment tech business" [EML.0035.0003.6348];
 - (ii) the CBI's view of the e-money and payment services sector in which PCSIL operated would "constrain our long term growth"; and
 - (iii) to cover the additional compliance costs of an estimated AUD \$8m over the next 24 months, EML and/or PCSIL would have to increase GDV to \$12 billion AUD p.a. to avoid impact on EML revenues;
- (l) by on or about 30 July 2021, from the 30 July 2021 Email, that PCSIL's proposed interim measures did not contain critical information regarding how PCSIL proposed to manage material growth;

- (m) by on or about 16 August 2021, from the 16 August 2021 Email, that:
 - (i) the CBI sought clarification as to how PCSIL's proposed growth limit of 30% in average payment value does not constitute material growth;
 - (ii) reiterated the CBI's expectation that PCSIL undertake a review of card limits across all programs (including existing programs), with a view to recalibrating the limits to reduce ML/TF risk.
- (n) by on or about 20 August 2021, the 20 August 2021 Letter; and
- (o) by on or about 6 October 2021, the matters in the 6 October 2021 Letter.

B2. Based on:

- (a) Cregan's actual knowledge;
- (b) his role as a member of the CBI Steer Co;
- (c) his role as Managing Director and Group Chief Executive Officer; and/or
- (d) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- B3. Because Cregan, given his role as Managing Director and Group Chief Executive Officer, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, he ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Liddy

- B4. Liddy had actual knowledge, by the dates particularised in paragraph B1, of the matters particularised therein, for the reasons there particularised, save the matters in subparagraph B1(k).

B5. Based on:

- (a) Liddy's actual knowledge;
- (b) his role as a director of EML;
- (c) his role as a member of the CBI Subcommittee; and/or
- (d) adequate compliance and reporting structures within EML,

Liddy ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

B6. Because Liddy, given his role as a Director of EML and in his role as a member of the CBI Subcommittee, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, he ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Wilson

B7. Wilson had actual knowledge, by the dates particularised in paragraph B1, of the matters particularised therein, for the reasons there particularised, save the matters in subparagraph B1(k).

B8. Based on:

- (a) Wilson's actual knowledge;
- (b) her role as a director of EML;
- (c) her attendance of the CBI Subcommittee; and/or
- (d) adequate compliance and reporting structures within EML,

Wilson ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17

August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- B9. Because Wilson, given her role as a Director of EML, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, she ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Adcock

- B10. Adcock had actual knowledge, by the dates particularised in paragraph B1, of the matters particularised therein, for the reasons there particularised, save the matters in subparagraphs B1(k).

- B11. Based on:

- (a) Adcock's actual knowledge;
- (b) his role as a director of EML;
- (c) his role as a member of the CBI Subcommittee; and/or
- (d) adequate compliance and reporting structures within EML,

Adcock ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- B12. Because Adcock, given his role as a Director of EML and in his role as a member of the CBI Subcommittee, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, he ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Wenk

B13. Wenk had actual knowledge, by the dates particularised in paragraph B1, of the matters particularised therein, for the reasons there particularised, save the matters in subparagraph B1(k).

B14. Based on:

- (a) Wenk's actual knowledge;
- (b) his role as EML's General Counsel and Joint Company Secretary;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Wenk ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

B15. Because Wenk, given his role as a EML's Group General Counsel, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, he ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Tissera-Isaacs

B16. Tissera-Isaacs had actual knowledge, by the dates particularised in paragraph 1, of the matters particularised therein, for the reasons there particularised, save the matters in subparagraph B1(k).

B17. Based on:

- (a) Tissera-Isaac's actual knowledge;
- (b) her role as EML's Head of Corporate Governance, Joint Company Secretary and Company Secretary;
- (c) her role as a member of the CBI Steer Co; and/or

- (d) adequate compliance and reporting structures within EML,

Tissera Isaacs ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- B18. Because Tissera Isaacs, given her role as Head of Corporate Governance and EML's Company Secretary, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, she ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Shore

- B19. Shore had actual knowledge, by the dates particularised in paragraph 1, of the matters particularised therein, for the reasons there particularised.

- B20. Based on:

- (a) Shore's actual knowledge;
- (b) his role as EML's Group Chief Financial Officer;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- B21. Because Shore, given his role as Chief Financial Officer, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, she

ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Betts

B22. Betts had actual knowledge, by the dates particularised in paragraph 1, of the matters particularised therein, for the reasons there particularised.

B23. Based on:

- (a) Betts' actual knowledge;
- (b) his role as EML's Group Chief Risk Officer;
- (c) his role as an interim director of PCSIL;
- (d) his role as a member of the CBI Steer Co; and/or
- (e) adequate compliance and reporting structures within EML,

Betts ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

B24. Because Betts, given his role as EML's Group Chief Risk Officer, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, he ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Evans

B25. Evans had actual knowledge:

- (a) by the dates particularised in paragraph 1, of the matters particularised therein, for the reasons there particularised;
- (b) of the matters in the 12 August 2021 Email;
- (c) the 20 August 2021 Letter;

- (d) the 6 October 2021 Letter;
- (e) the 23 November 2021 Letter; and
- (f) the 30 November 2021 Letter.

B26. Based on:

- (a) Evans' actual knowledge;
- (b) her role as Chief Executive Officer of EML Europe, Middle East and Africa;
- (c) her role as the CEO of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Evans ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

B27. Because Evans, given her role as CEO of EML Europe, Middle East and Africa, and CEO of PCSIL, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, she ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

Martin

B28. Martin had actual knowledge, by the dates particularised in paragraph B1, of the matters particularised therein, for the reasons there particularised, save the matters in subparagraph B1(k).

B29. Based on:

- (a) Martin's actual knowledge;
- (b) his role as a director of EML;
- (c) his role of the chair of the CBI Subcommittee; and/or
- (d) adequate compliance and reporting structures within EML,

Martin ought to have been aware of the August Program Limits Information on and from 17 August 2021 (or alternatively from each date after 17 August 2021) until 7 October 2021. To the extent particulars are given by reference to documents post-dating 17 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

- B30. Because Martin, given his role as a Director of EML and in his role as a member of the CBI Subcommittee, ought to have been aware that the CBI was likely to require or expect that limits would be imposed upon a significant number of PCSIL's programs until such time as the remediation required to address the AML/CTF regulatory issues had been completed and finalised to CBI's satisfaction, he ought also to have been aware that such limits as the CBI required or expected to be imposed would impact PCSIL's European operations.

As to paragraph 239(c):

- B31. On 17 August 2021, EML had made the statements pleaded in paragraph 183 above.
- B32. Each of the statements set out in paragraph B31 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- B33. The August Program Limits Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraph B31 above.
- B34. EML's directors and officers knew that it made the statements set out in paragraph B31 above, that they had been made to the Affected Market as set out in paragraph B32 above, and having regard to the inherent nature of the August Program Limits Information (being information of which they ought to have been aware, and particulars B1 to B30 are repeated) ought reasonably to have known its disclosure would be objectively likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- B35. Alternatively, during the Second Relevant Period from 17 August 2021 to 7 October 2021:
- (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs B1, B4, B7, B10, B13, B16, B19, B22, B25 and B28 above.

- (b) Having regard to paragraph B34 above, EML's directors and officers who had the actual knowledge as set out in paragraph B35(a) above failed to consider whether their actual knowledge:
- (i) qualified or contradicted all or any of EML's statements set out in paragraph B31 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing a corrective disclosure to be made; and/or
 - (ii) gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
 - (iii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge:
 - (A) qualified or contradicted all or any of EML's statements set out in paragraph B31 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the August Program Limits Information to be disclosed; and/or
 - (B) gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

B36. Alternatively, having regard to paragraph B34 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge as set out in paragraphs B1, B4, B7, B10, B13, B16, B19, B22, B25 and B28 above:

- (a) considered whether their actual knowledge gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so

that EML could properly consider whether their actual knowledge gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares.

B37. Alternatively, having regard to paragraph B34 above, EML's directors and officers who did not have actual knowledge as set out in paragraph B35 above failed to obtain that information which they ought to have obtained in the course of their duties and:

- (a) consider whether it gave rise to them being aware of the August Program Limits Information and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing a corrective disclosure to be made.

B38. Alternatively, having regard to paragraph B34 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge (as set out paragraph B35 above) obtained that information which they ought to have obtained in the course of their duties and:

- (a) considered whether their knowledge so obtained gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the August Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares.

Annexure C (Initial PCSIL Remediation Timing Information)

As to paragraph 244(a):

Cregan

C1. Cregan had actual knowledge:

- (a) by at least 31 March 2020 from EML's due diligence as part of the acquisition of PFS that:
 - (i) PFS' risk and compliance team was "extremely dysfunctional" [EML.0113.0002.1443];
 - (ii) certain AML/CTF controls and procedures were inadequate and deficient;
 - (iii) PFS was at risk of losing EMI authorisation from the FCA;
- (b) by at least 1 April 2020 that PFS ran "fast and loose" when it came to risk and compliance [EML.0098.0032.7981];
- (c) by at least 18 August 2020 from Audit and Risk Committee meeting on that date that:
 - (i) the two most significant risks relating to EML were:
 - (A) PFS' AML/CTF risk and control framework; and
 - (B) ensuring appropriate governance structures were in place for PFS; and
 - (ii) following an investigation and fine by the French regulator, PFS has conceded that it will need to disclose additional AML/CTF breaches;
 - (iii) PFS has known system errors that can result in a politically exposed person and sanction screening not being accurately completed;
 - (iv) there are known issues with the reliability of PFS' know your customer checks;
 - (v) PFS risk further fines and sanctions from regulators including potentially the CBI;

- (vi) given the “widespread” nature of these AML breaches, it is plausible that a regulator may deem these to be systemic AML failures which may in turn have licensing and commercial implications;
 - (vii) that these risks required attention to ensure they would not be considered by regulators to be systemic issues;
 - (viii) PFS failed to correctly maintain its current lodgements with the CBI in respect of senior management/leadership;
 - (ix) PFS acknowledge that they are “ill-equipped” to properly understand all of the regulation in the markets in which it operates;
 - (x) there is a possibility that regulatory licences could be withdrawn by the CBI if issues are not resolved;
- (d) by at least 20 August 2020 from ‘Risk Reporting’ updates [e.g. EML.0098.0035.2478] that:
- (i) there was inadequate corporate governance of PCSIL and PFS which could have major consequences including financial losses, regulatory fines, or revocations of licences;
 - (ii) there had been a system failure in the sanction and politically exposed person screening system;
 - (iii) that AML system checks were being completed manually; and
 - (iv) that a number of items had an “inherent risk rating” of “extreme”;
- (e) by on or around 23 September 2020 from the 23 September 2020 Report that:
- (i) PFS had not carried out, and appeared to have never carried out, AML/CTF risk assessments on a regular periodic basis;
 - (ii) the CBI considered that there were deficiencies in PFS’ AML/CTF policies and procedures;
 - (iii) the CBI was not satisfied that PFS’ customer due diligence was adequate; and
 - (iv) CBI was not satisfied that PFS’ suspicious transaction reporting function was adequate;

- (f) by on or around 22 October 2020 from the 22 October 2020 Email that PCSIL had not filled various required personnel and officer roles;
- (g) by at least 20 November 2020 from Gadiot that PFS' risk and compliance department was "extremely under resourced" and "the base is shaky at best" [EML.0098.0214.8573; EML.0098.0214.8575];
- (h) by on or around 7 May 2021 from the 7 May 2021 Letter the nature and extent of the CBI's concerns about PCSIL's governance, internal controls and risk management arrangements as set out in the 7 May 2021 Letter and that PCSIL was required to undertake immediate remediate action in respect of those concerns;
- (i) by on or around 13 May 2021 from the First 13 May 2021 Letter the nature and extent of the CBI's concerns about PCSIL's governance, internal controls and risk management arrangements as set out in the First 13 May 2021 Letter;
- (j) by on or around 13 May 2021 from the Second 13 May 2021 Letter the nature and extent of the CBI's concerns about governance, internal controls and risk management arrangements as set out in the Second 13 May 2021 Letter;
- (k) by on or around 17 May 2021 from the 17 May 2021 Letter the nature and extent of the CBI's concerns about governance, internal controls and risk management arrangements as set out in the 17 May 2021 Letter;
- (l) by on or around 2 July 2021 from his involvement in the CBI Steer Co of the decision to reduce the contributions made by PwC to the remediation plan;
- (m) by on or around 5 July 2021 from the 5 July 2021 Letter that following receipt of PCSIL's proposed remediation plan that:
 - (i) the CBI considered PCSIL to have an apparent lack of understanding of how to appropriately assess its ML/TF risks;
 - (ii) the CBI considered that in the absence of an appropriate assessment of PCSIL's inherent risk profile means that PCSIL cannot design and implement a robust AML/CTF framework;
 - (iii) the CBI expected the proposed remediation plan to be underpinned by appropriate risk management that focuses on the ML/TF risk inherent to PCSIL;

- (iv) the CBI considered that having regard to the deficiencies identified in PCSIL it seemed likely that any remediation plan, in order to achieve an acceptable level of remediation, would require a considerable implementation period;
- (n) by on or around 9 July 2021 from the 9 July 2021 Letter the nature and extent of the CBI's concerns about governance, internal controls and risk management arrangements as set out in the Final POR and the actions proposed by the CBI to address those findings;
- (o) by on or around 6 August 2021 from his involvement in the CBI Steer CO that PwC's budget to assist in the implementation of the remediation program had been reduced from €393,000 per month to between €240,000 to €290,000 per month and was likely to run out by November 2021 [EML.0035.0003.9223];
- (p) by on or around 6 October 2021 from the 6 October 2021 Letter that:
 - (i) the CBI considered that a considerable implementation period for the remediation plan would be required to achieve an acceptable level of remediation;
 - (ii) it was the CBI's expectation that PCSIL would obtain third party assurance in respect of the adequacy and effectiveness of the remediation plan once implemented; and
 - (iii) the nature and extent of the deficiencies identified by CBI as set out in the Final Findings Report and the steps required to address those deficiencies;
 - (iv) the CBI was minded to make directions for a period of 12 months;
- (q) by on or around 27 October 2021 from the CBI Steer Co meeting of that date that PCSIL's remediation workstreams would be "rebaseline[d]" with timelines extended to 30 June 2022 [EML.0037.0029.4676_4679];
- (r) by on or around 4 November 2021 from PCSIL's remediation plan that:
 - (i) there were 117 "overarching deliverables";
 - (ii) 90 activities or asks were reported as 0% complete;
 - (iii) of those 90 activities, 9 had a start due date and/or end date which was overdue; and
 - (iv) of those 90 activities, 20 had a date for completion by 30 November 2021;

- (s) by on or around 10 November 2021 from the presentation given at the CBI Steer Co meeting of that date that:
 - (i) the AML/CTF workstream of the remediation plan was given a red status identifying that it was significantly behind the extended time to complete end dates;
 - (ii) there was a high risk that PCSIL would not be able to hire the appropriate resources to manage and/or execute the AML/CTF workstream activities of the remediation plan;
 - (iii) there was a high risk that PCSIL would not be able to retain employees with key business knowledge;
 - (iv) the risks of failing to recruit required board members and personnel for PCSIL was medium to high; and
 - (v) PCSIL was required to provide data on inherent risks and controls which would take 6-8 weeks for PCSIL's IT function to assess "how and if the information can be provided" [EML.0059.0027.1857_0037];
- (t) by at least 12 November 2021 that the remediation plan would not be completed by 31 March 2022 [EML.0045.0005.3232];
- (u) by on or around 24 November 2021 from the presentation given at the CBI Steer Co meeting of that date that:
 - (i) the AML/CTF workstream of the remediation plan was given a red status identifying that it was significantly behind the extended time to complete end dates;
 - (ii) there was a high risk that PCSIL would not be able to hire the appropriate resources to manage and/or execute the AML/CTF workstream activities of the remediation plan;
 - (iii) there was a high risk that PCSIL would not be able to retain employees with key business knowledge;
 - (iv) the risks of failing to recruit required board members and personnel for PSCIL was medium to high; and

- (v) PCSIL was required to provide data on inherent risks and controls which would take 6-8 weeks for PCSIL's IT function to assess "how and if the information can be provided" [EML. 0044.0018.9231_9263];
- (v) by on or around 30 November 2021, that the remediation plan could be completed by August 2022 "or later" [EML.0045.0004.8565];
- (w) by 8 December 2021 from the presentation given at the CBI Steer Co meeting of that date that:
 - (i) the governance workstream of the remediation plan would require further extensions to the date for completion;
 - (ii) the ability to complete activities in the AML workstream was interdependent on the completion of other activities which had not been completed and as a result the status of the remediation program was raised to 'amber' reflecting that it was not on track;
 - (iii) the dates for filing PCF roles would require further extensions;
 - (iv) the business wide risk assessment could not be completed because of the paucity of data from PCSIL's products, services and/or customers;
 - (v) key risks had not been recorded in the AML/CTF risk register and were not expected to be prepared until January 2022;
 - (vi) the PMO was tracking 'amber' due to the status of the IT, AML and IC workstreams;
 - (vii) expected completion dates were extended;
 - (viii) tasks remained largely incomplete notwithstanding extended completion dates which had passed or were due in a matter of weeks or months;
 - (ix) there was a high risk that PCSIL would not be able to hire the appropriate resources to manage and/or execute the AML/CTF workstream activities of the remediation plan;
 - (x) there was a high risk that PCSIL would not be able to retain employees with key business knowledge;
 - (xi) the risks of failing to recruit required board members and personnel for PCSIL was medium to high; and

- (xii) PCSIL was required to provide data on inherent risks and controls which would take 6-8 weeks for PCSIL's IT function to assess "how and if the information can be provided" [EML.0098.0170.1579];
- (x) by 8 December 2021 that the remediation plan was unlikely to be completed by 30 June 2022 ("we keep saying March/June but we keep hitting roadblocks and pushing the dates back. That's the reality") [EML.0042.0014.1165];
- (y) by 8 December 2021 from the presentation given at the CBI Steer Co that:
 - (i) the governance workstream of the PCSIL remediation workstream would require further completion date extensions;
 - (ii) the ability to complete activities in the AML workstream was interdependent on the completion of other activities which had not completed and as a result the status of the remediation programme was raised to an "amber" setting reflecting that it was not on track;
 - (iii) completion of the filling of PCF roles would require further extension beyond 17 February 2022;
 - (iv) the business wide risk assessment could not be completed because of a paucity of data from PCSIL's products and services and/or customers;
 - (v) key risks had not been recorded in the AML/CTF Risk Register, and were not expected to be prepared until January 2022; and
 - (vi) the PMO was tracking amber due to the IT, AML and IC workstreams status.
 - (vii) interviews were still being conducted for Board Candidates for executive and non-executive positions on PCSIL's Board, which were stated as 60% complete, with a restated completion date of 17 February 2022;
 - (viii) PCF roles, including the Head of Compliance, Chief Operations Officer and Chief Information Officer were not filled, and were stated as 70% complete, with a restated completion date of 17 February 2022;
 - (ix) the PCSIL Risk Register was 0% complete, with an extended expected completion date of 31 January 2022;
 - (x) the business risk assessment was 50% complete, with an expected completion of date of 17 December 2021;

- (xi) the updated business risk register was 0% complete, with an expected completion date of 10 November 2021;
 - (xii) remediation of all existing clients was 5% complete, with an expected completion date of 28 March 2022;
 - (xiii) updated PEP and financial sanctions systems were 20%, with an expected completion date of 25 January 2022 [EML.0098.0170.1467; EML.0098.0170.1579];
- (z) by 10 December 2021, that there was a need to “refocus and calibrate the different programme meetings, and in particular steering [CBI Steer Co] to increase confidence we will hit the July 2022 deadline.” [EML.0040.0015.4137];
- (aa) by 12 December 2021, that the [remediation] process needed fundamental change if we are going to meet the dates we have communicated to the market.” [EML.0040.0015.4137];
- (bb) by 15 December 2021 from the presentation given at the CBI Steer Co meeting of that date that:
- (i) expected completion dates were extended;
 - (ii) tasks remained largely incomplete notwithstanding extended completion dates which had passed or were due in a matter of weeks or months;
 - (iii) there was a high risk that PCSIL would not be able to hire the appropriate resources to manage and/or execute the AML/CTF workstream activities of the remediation plan;
 - (iv) there was a high risk that PCSIL would not be able to retain employees with key business knowledge;
 - (v) the risks of failing to recruit required board members and personnel for PCSIL was medium to high; and
 - (vi) PCSIL was required to provide data on inherent risks and controls which would take 6-8 weeks for PCSIL’s IT function to assess “how and if the information can be provided”;

- (cc) by 6 January 2022 from the presentation given at the CBI Steer Co meeting of that date that:
- (i) expected completion dates were extended;
 - (ii) tasks remained largely incomplete notwithstanding extended completion dates which had passed or were due in a matter of weeks or months;
 - (iii) there was a high risk that PCSIL would not be able to hire the appropriate resources to manage and/or execute the AML/CTF workstream activities of the remediation plan;
 - (iv) there was a high risk that PCSIL would not be able to retain employees with key business knowledge;
 - (v) the risks of failing to recruit required board members and personnel for PCSIL was medium to high; and
 - (vi) PCSIL was required to provide data on inherent risks and controls which would take 6-8 weeks for PCSIL's IT function to assess "how and if the information can be provided";
- (dd) by on or around 20 January 2022, from the meeting of the CBI Steer Co that the remediation of PCSIL's AML/CTF control framework was materially incomplete [EML.0048.0003.5436] [EML.0048.0003.5434];
- (ee) by on or around 10 February 2022 from the 10 February 2022 Meeting that:
- (i) the CBI was critical of PCSIL's remediation plan;
 - (ii) the CBI considered the timelines in PCSIL's remediation plan appeared overly optimistic and in some areas appeared to lack credibility;
 - (iii) PCSIL should revise its remediation plan to ensure that the timelines are credible and take into account the seriousness of the issues identified and the depth of remediation required, and that the sequencing is appropriate; and
 - (iv) the remediation plan should build in the completion of validation by an independent third-party review which should only commence following a reasonable period in order to allow the third party to test that the controls are embedded and operatively effectively [EML.0063.0049.6711];

- (ff) by on or around 15 February 2022, from the 15 February 2022 Letter, that:
- (i) the CBI was critical of PCSIL's remediation plan;
 - (ii) the CBI considered the timelines in PCSIL's remediation plan appeared overly optimistic and in some areas appeared to lack credibility;
 - (iii) PCSIL should revise its remediation plan to ensure that the timelines are credible and take into account the seriousness of the issues identified and the depth of remediation required, and that the sequencing is appropriate; and
 - (iv) the remediation plan should build in the completion of validation by an independent third party review which should only commence following a reasonable period in order to allow the third party to test that the controls are embedded and operatively effectively [EML.0045.0015.6151] [EML.0045.0015.5968].

C2. Based on:

- (a) Cregan's actual knowledge;
- (b) his role as a member of the CBI Steer Co;
- (c) his role as Managing Director and Group Chief Executive Officer; and/or
- (d) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the Initial PCSIL Remediation Timing Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021 until 16 February 2022 when he ought to have been aware of the Revised PCSIL Remediation Timing Information (as to which see Annexure H below). To the extent particulars are given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Shore

C3. Shore had actual knowledge, by the dates of the matters particularised in paragraph C1, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs C1(b), C1(d) to C1(f), C1(o), C1(q) to C1(t) and C1(v) to C1(w), C1(cc), C1(ee) and C1(ff).

C4. Based on:

- (a) Shore's actual knowledge;
- (b) his role as EML's Group Chief Financial Officer;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the Initial PCSIL Remediation Timing Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021 until 16 February 2022 when he ought to have been aware of the Revised PCSIL Remediation Timing Information (as to which see Annexure H below). To the extent particulars are given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Betts

C5. Betts had actual knowledge by the dates particularised in paragraph C1, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs C1(q) to C1(s), C1(u) to C1(w), C1(ee) and C1(ff).

C6. Based on:

- (a) Betts' actual knowledge;
- (b) his role as EML's Group Chief Risk Officer;
- (c) his role as interim director of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Betts ought to have been aware of the Initial PCSIL Remediation Timing Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021 until 16 February 2022 when he ought to have been aware of the Revised PCSIL Remediation Timing Information (as to which see Annexure H below). To the extent particulars are given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Evans

C7. Evans had actual knowledge by the dates particularised in paragraph C1 of Annexure C, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs C1(a) to C1(k), C1(m) to C1(n) and C1(v).

C8. Based on:

- (a) Evans' actual knowledge;
- (b) her role as CEO of PCSIL on and from 3 August 2021; and/or
- (c) adequate compliance and reporting structures within EML,

Evans ought to have been aware of the Initial PCSIL Remediation Timing Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021 until 16 February 2022 when he ought to have been aware of the Revised PCSIL Remediation Timing Information (as to which see Annexure H below). To the extent particulars are given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Wenk

C9. Wenk had actual knowledge:

- (a) by the dates of the matters particularised in paragraph C1, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs C1(b), C1(d) to C1(g), C1(l) to C1(x) and C1(ee).

C10. Based on:

- (a) Wenk's actual knowledge;
- (b) his role as EML's General Counsel and Joint Company Secretary;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Wenk ought to have been aware of the Initial PCSIL Remediation Timing Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021 until 16 February 2022 when he ought to have been aware of the Revised PCSIL Remediation Timing Information (as to which see Annexure H below). To the extent particulars are

given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

As to paragraph 244(c):

C11. EML had made the statements:

- (a) pleaded in paragraph 175 above on 19 May 2021;
- (b) pleaded in paragraph 183 above on 17 August 2021; and
- (c) pleaded in paragraph 193 above on 25 November 2021.

C12. Each of the statements set out in paragraph C11 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

C13. The Initial PCSIL Remediation Timing Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraph C11 above, and further, or alternatively having regard to the representations made and continued by EML pleaded in paragraph 216 and/or 222 above.

C14. EML's directors and officers knew that it made the statements set out in paragraph C11 above, that they had been made to the Affected Market as set out in paragraph C12 above, and having regard to the inherent nature of the Initial PCSIL Remediation Timing Information (being information of which they ought to have been aware, and particulars C1 to C10 are repeated) ought reasonably to have known that its disclosure was objectively likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

C15. Alternatively, during the Second Relevant Period:

- (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs C1 to C10 above.
- (b) Having regard to paragraph C14 above, EML's directors and officers who had the actual knowledge as set out in paragraph C15(a) above failed to:
 - (i) consider whether their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph C11 above so as to be likely to

influence investors or potential investors who were considering whether to buy or sell EML Shares;

- (ii) consider whether their actual knowledge gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
- (iii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge:
 - (A) qualified or contradicted all or any of EML's statements set out in paragraph C11 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed; and/or
 - (B) gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

C16. Alternatively, having regard to paragraph C14 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge as set out in paragraphs C1, C3, C5, C7 and C9:

- (a) considered whether their actual knowledge:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraph C11 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed; and/or
 - (ii) gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and

- (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether:
 - (i) their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph C11 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed; and/or
 - (ii) gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- C17. Alternatively, having regard to paragraph C14 above, EML's directors and officers who did not have actual knowledge as set out in paragraph C15 above failed to obtain that information which they ought to have obtained in the course of their duties and:
- (a) consider whether it qualified or contradicted all or any of EML's statements set out in paragraph C11 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed; and
 - (b) consider whether it gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
 - (c) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed.
- C18. Alternatively, having regard to paragraph C14 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge (as set out in paragraph C15 above) obtained that information which they ought to have obtained in the course of their duties and:

- (a) considered whether their knowledge so obtained gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the Initial PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed.

Annexure D (First Guidance Inability Information)

As to paragraph 249(a):

Cregan

D1. Based on:

- (a) his actual knowledge:
 - (i) of the matters in subparagraphs B1(a) to B1(k) and B1(m) to B1(o) above;
 - (ii) of the matters in subparagraphs C1(m)(iv), C1(n) and C1(q);
 - (iii) by on or around 12 October 2021, that Shore considered that “Both (a) timing, and (b) scope of any potential action by the CBI could be more or less impactful on our guidance and it’s impossible to quantify at this point in time” [EML.0042.0028.0760];
 - (iv) the 19 October 2021 Letter;
 - (v) by on or around 5 November 2021, that the ASX was making enquiries as to whether EML needed to reiterate FY22 Guidance [EML.0040.0016.5480];
- (b) his role as Managing Director and Group Chief Executive Officer; and/or
- (c) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the First Guidance Inability Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021) until 26 April 2022. To the extent particulars are given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Shore

D2. Based on:

- (a) Shore’s actual knowledge of:
 - (i) by on or around 12 October 2021, that “Both (a) timing, and (b) scope of any potential action by the CBI could be more or less impactful on our guidance and it’s impossible to quantify at this point in time” [EML.0042.0028.0760];

- (ii) the 19 October 2021 Letter;
- (b) his role as EML's Group Chief Financial Officer;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the First Guidance Inability Information on and from 18 August 2021 (or alternatively from each date after 18 August 2021) until 26 April 2022. To the extent particulars are given by reference to documents post-dating 18 August 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

As to paragraph 249(b):

- D3. On 19 May 2021, EML had made the statements pleaded in paragraph 175.
- D4. On 17 August 2021, EML had made the statements pleaded in paragraph 183 above.
- D5. Each of the statements set out in paragraphs D3 and D4 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- D6. The First Guidance Inability Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraphs D3 and D4 above, and further, or alternatively having regard to the representations made and continued by EML pleaded in paragraph 54 above.
- D7. EML's directors and officers knew that it made the statements set out in paragraphs D3 and D4 above, that they had been made to the Affected Market as set out in paragraph D5 above, and having regard to the inherent nature of the First Guidance Inability Information (being information of which they ought to have been aware, and paragraphs D1 and D2 are repeated) ought reasonably to have known that its disclosure was objectively likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- D8. Alternatively, during the Second Relevant Period from 17 August 2021 to 26 April 2022:
 - (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs D1 and D2 above.

- (b) Having regard to paragraph D7 above, EML's directors and officers who had the actual knowledge as set out in paragraph D8(a) above failed to:
- (i) consider whether their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraphs D3 and D4 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares;
 - (ii) consider whether their actual knowledge gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
 - (iii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge:
 - (A) qualified or contradicted all or any of EML's statements set out in paragraphs D3 and D4 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed; and/or
 - (B) gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- D9. Alternatively, having regard to paragraph D7 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge as set out in paragraphs D1 and D2 above:
- (a) considered whether their actual knowledge:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraphs D3 and D4 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed; and

- (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether:
 - (i) their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraphs D3 and D4 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed; and/or
 - (ii) gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- D10. Alternatively, having regard to paragraph D7 above, EML's directors and officers who did not have actual knowledge as set out in paragraph D8 above failed to obtain that information which they ought to have obtained in the course of their duties and:
- (a) consider whether it qualified or contradicted all or any of EML's statements set out in paragraphs D3 and D4 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed; and/or
 - (b) consider whether it gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and/or
 - (c) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraphs D3 and D4 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed; and/or
 - (ii) gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors and potential investors who

were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed.

D11. Alternatively, having regard to paragraph D7 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge (as set out in paragraph D8) above obtained that information which they ought to have obtained in the course of their duties and:

- (a) considered whether their knowledge so obtained gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether gave rise to them being aware of the First Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the First Guidance Inability Information to be disclosed.

Annexure E (November Program Limits Information)

As to paragraph 254(a):

Cregan

E1. Based on:

- (a) his actual knowledge:
 - (i) of the matters in subparagraphs B1(a) to B1(e), B1(g) and B1(h) of Annexure B;
 - (ii) of the matters in subparagraph C1(p) of Annexure C;
 - (iii) of the matters in subparagraph D1(a)(iv) of Annexure D; and
 - (iv) of the matters in paragraph F1 of Annexure F (below);
- (b) his role as Managing Director and Group Chief Executive Officer; and/or
- (c) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the November Program Limits Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 11 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Shore

E2. Based on:

- (a) Shore's actual knowledge:
 - (i) by the dates of the matters particularised in paragraph E1 of the matters particularised therein, for the reasons there particularised, save for the C1(q) to C1(t), C1(v) to C1(x), C1(cc), C1(ee) and C1(ff) of Annexure C (which are cross-referred to in paragraph F1 of Annexure F, being the reference in subparagraph E1(a)(iv) above);
 - (ii) by the dates of the matters particularised in paragraph G2 of Annexure G, of the matters particularised therein, for the reasons there particularised.
- (b) his role as EML's Group Chief Financial Officer;

- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the November Program Limits Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Betts

E3. Based on:

- (a) Betts' actual knowledge:
 - (i) by the dates of the matters particularised in paragraph E1, of the matters particularised therein, for the reasons there particularised, save for the matters in Annexure D and Annexure G; and
 - (ii) by the dates of the matters particularised in paragraph F5 of Annexure F, of the matters particularised therein, for the reasons there particularised
- (b) his role as EML's Group Chief Risk Officer;
- (c) his role as interim director of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Betts ought to have been aware of the November Program Limits Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Evans

E4. Based on:

- (a) Evans' actual knowledge:
 - (i) by the dates of the matters particularised in paragraph E1, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs Annexure D and Annexure G; and

(ii) by the dates of the matters particularised in paragraph F11 of Annexure F, of the matters particularised therein, for the reasons there particularised.

(b) her role as CEO of PCSIL on and from 3 August 2021; and/or

(c) adequate compliance and reporting structures within EML,

Evans ought to have been aware of the November Program Limits Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Wenk

E5. Based on:

(a) Wenk's actual knowledge:

(i) by the dates of the matters particularised in paragraph E1, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs Annexure D and Annexure G; and

(ii) by the dates of the matters particularised in paragraph F7 of Annexure F, of the matters particularised therein, for the reasons there particularised.

(b) his role as EML's General Counsel and Joint Company Secretary;

(c) his role as a member of the CBI Steer Co; and/or

(d) adequate compliance and reporting structures within EML,

Wenk ought to have been aware of the November Program Limits Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

As to paragraph 254(c):

E6. On 25 November 2021, EML had made the statements pleaded in paragraph 194 above.

- E7. Each of the statements set out in paragraph E6 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- E8. The November Program Limits Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraph E6 above.
- E9. EML's directors and officers knew that it made the statements set out in paragraph E6 above, that they had been made to the Affected Market as set out in paragraph E7 above, and having regard to the inherent nature of the November Program Limits Information (being information of which they ought to have been aware, and particulars E1 to E5 are repeated) ought reasonably to have known that its disclosure would be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- E10. Alternatively, during the Second Relevant Period from 25 November 2021 to 25 July 2022:
- (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs E1 to E5 above.
 - (b) Having regard to paragraph E9 above, EML's directors and officers who had the actual knowledge as set out in paragraphs E1(a), E2(a), E3(a), E4(a) and E5(a) above failed to:
 - (i) consider whether their actual knowledge gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
 - (ii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- E11. Alternatively, having regard to paragraph E9 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge (as set out in subparagraphs E1(a), E2(a), E3(a), E4(a) and E5(a) above):

- (a) considered whether their actual knowledge gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
 - (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether their actual knowledge gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares.
- E12. Alternatively, having regard to paragraph E9 above, EML's directors and officers who did not have actual knowledge as set out in subparagraphs E1(a), E2(a), E3(a), E4(a) and E5(a) above failed to obtain that information which they ought to have obtained in the course of their duties and:
- (a) consider whether it gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
 - (b) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding then causing the November Program Limits Information to be disclosed.
- E13. Alternatively, having regard to paragraph E9 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge as set out in the particulars to subparagraphs E1(a), E2(a), E3(a), E4(a) and E5(a) above obtained that information which they ought to have obtained in the course of their duties and:
- (a) considered whether their knowledge so obtained gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and

- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the November Program Limits Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares.

Annexure F (PCSIL Growth Impact Timing Information)

As to paragraph 259(a):

Cregan

F1. Cregan had actual knowledge, by the dates of the matters particularised in C1(q) to C1(ff) of Annexure C, and of subparagraphs H1(b) to H1(r) of Annexure H of the matters particularised therein, for the reasons there particularised.

F2. Based on:

- (a) Cregan's actual knowledge;
- (b) his role as a member of the CBI Steer Co;
- (c) his role as Managing Director and Group Chief Executive Officer; and/or
- (d) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the PCSIL Growth Impact Timing Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 11 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Shore

F3. Shore had actual knowledge:

- (a) by the dates of the matters particularised in paragraph C1 in Annexure C, of the matters particularised therein, for the reasons there particularised, save for subparagraphs C1(b), C1(d) to C1(o), C1(q) to C1(t), C1(v) to C1(x), C1(cc), C1(ee) and C1(ff); and
- (b) by the dates of the matters particularised in paragraph H1 in Annexure H, of the matters particularised therein, for the reasons there particularised, save for subparagraphs H1(a), H1(b), H1(c), H1(f) and H1(o).

F4. Based on:

- (a) Shore's actual knowledge;
- (b) his role as EML's Group Chief Financial Officer;

- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the PCSIL Growth Impact Timing Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Betts

F5. Betts had actual knowledge:

- (a) by the dates of the matters particularised in paragraph C1 in Annexure C, of the matters particularised therein, for the reasons there particularised, save for subparagraphs C1(q) to C1(s), C1(u) to C1(w), C1(ee) and C1(ff).
- (b) by the dates particularised in paragraph H1 in Annexure H, of the matters particularised therein, for the reasons there particularised, save for subparagraphs H1(a), H1(b), H1(c), H1(f), H1(h), H1(i) and H1(l).

F6. Based on:

- (a) Betts' actual knowledge;
- (b) his role as EML's Group Chief Risk Officer;
- (c) his role as interim director of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Betts ought to have been aware of the PCSIL Growth Impact Timing Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Wenk

F7. Wenk had actual knowledge:

- (a) by the dates of the matters particularised in paragraph C1 in Annexure C, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs C1(b), C1(d) to C1(g), C1(.) to C1(x) and C1(ee).
- (b) by the dates particularised in paragraph H1 in Annexure H, of the matters particularised therein, for the reasons there particularised, save for subparagraphs H1(a), H1(b), H1(c), H1(f) and H1(o).

F8. Based on:

- (a) Wenk's actual knowledge;
- (b) his role as EML's General Counsel and Joint Company Secretary;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Wenk ought to have been aware of the PCSIL Growth Impact Timing Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Tissera-Isaacs

F9. Tissera-Isaacs had actual knowledge:

- (a) by the dates of the matters particularised in paragraph C1 in Annexure C, of the matters particularised therein, for the reasons there particularised, save for subparagraphs C1(a), C1(b), C1(e), C1(g), C1(l) and C1(o) to C1(ee).
- (b) by the dates particularised in paragraph H1 in Annexure H, of the matters particularised therein, for the reasons there particularised, save for subparagraphs H1(a), H1(c) to H1(e), H1(g), H1(j) and H1(m) to H1(q).

F10. Based on:

- (a) Tissera-Isaac's actual knowledge;

- (b) her role as EML's Head of Corporate Governance, Joint Company Secretary and Company Secretary;
- (c) her role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Tissera-Isaacs ought to have been aware of the PCSIL Growth Impact Timing Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Evans

F11. Evans had actual knowledge:

- (a) by the dates particularised in paragraph C1 of Annexure C, of the matters particularised therein, for the reasons there particularised, save for the matters in subparagraphs C1(a) to C1(o), C1(v) and C1(dd); and
- (b) by the dates particularised in paragraph H1 in Annexure H, of the matters particularised therein, for the reasons there particularised, save for subparagraphs H1(a), H1(b), H1(d) to H1(f), H1(h), H1(i) and H1(p) to H1(q).

F12. Based on:

- (a) Evan's actual knowledge;
- (b) her role as Chief Executive Officer of EML Europe, Middle East and Africa;
- (c) interim Chief Executive Officer of PCSIL;
- (d) her role as a member of the CBI Steer Co; and/or
- (e) adequate compliance and reporting structures within EML,

Evans ought to have been aware of the PCSIL Growth Impact Timing Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

As to paragraph 259(c):

- F13. EML had made the statements:
- (a) pleaded in paragraphs 188 and 189 above on 17 November 2021; and
 - (b) pleaded in paragraph 193 above on 25 November 2021.
- F14. Each of the statements set out in paragraph F13 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- F15. The PCSIL Growth Impact Timing Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraph F13 above.
- F16. EML's directors and officers knew that it made the statements set out in paragraph F13 above, that they had been made to the Affected Market as set out in paragraph F14 above, and having regard to the inherent nature of the PCSIL Growth Impact Timing Information (being information of which they ought to have been aware, and paragraphs F2, F4, F6, F8, F10 and F12 are repeated) ought reasonably to have known that its disclosure was objectively likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- F17. Alternatively, during the Second Relevant Period:
- (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs F1, F3, F5, F7, F9 and F11 of Annexure F.
 - (b) Having regard to paragraph F16 above, EML's directors and officers who had the actual knowledge as set out in paragraph F17 above failed to:
 - (i) consider whether their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph F13 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares;
 - (ii) consider whether their actual knowledge gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
 - (iii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing

Rule 3.1) so that EML could properly consider whether the actual knowledge:

- (A) qualified or contradicted all or any of EML's statements set out in paragraph F13 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the PCSIL Growth Impact Timing Information to be disclosed; and/or
- (B) gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

F18. Alternatively, having regard to paragraph F16 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge as set out in paragraphs F1, F3, F5, F7, F9 and F11 of Annexure F:

- (a) considered whether their actual knowledge:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraph F13 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the PCSIL Growth Impact Timing Information to be disclosed; and/or
 - (ii) gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether:
 - (i) their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph F13 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the PCSIL Growth Impact Timing Information; and/or

- (ii) gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

F19. Alternatively, having regard to paragraph F16 above, EML's directors and officers who did not have actual knowledge as set out in paragraph F17 above failed to obtain that information which they ought to have obtained in the course of their duties and:

- (a) consider whether it qualified or contradicted all or any of EML's statements set out in paragraph F13 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the PCSIL Growth Impact Timing Information to be disclosed; and
- (b) consider whether it gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (c) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Initial PCSIL Remediation Timing Information to be disclosed.

F20. Alternatively, having regard to paragraph F16 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge (as set out in paragraph F17 above) obtained that information which they ought to have obtained in the course of their duties and:

- (a) considered whether their knowledge so obtained gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the PCSIL Growth Impact Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or

sell EML Shares, so concluding and then causing the PCSIL Growth Impact Timing Information to be disclosed.

Annexure G (Second Guidance Inability Information)

As to paragraph 264(a):

Cregan

G1. Based on:

- (a) his actual knowledge:
 - (i) as particularised in Annexure D;
 - (ii) that following 25 November 2021, PCSIL had still not taken steps to propose a reduction in card limits which was acceptable to the CBI to reduce its ML/TF risk until the remediation plan had been completed;
 - (iii) by on or around 14 January 2022, from the 14 January 2022 Letter, that the CBI sought information and clarification in relation to PCSIL's limits recalibration;
 - (iv) by 18 January 2021, that 1H22 EBITDA was \$22,350,000, which was "worse than [Cregan] I thought it would be, had hoped for \$24 – 25 [million]" [EML.0042.0033.3016];
 - (v) by on or around 3 March 2022, from the 3 March 2022 Letter, that the CBI had outlined a number of concerns in relation to the limits review program;
- (b) his role as Managing Director and Group Chief Executive Officer; and/or
- (c) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the Second Guidance Inability Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 26 April 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Shore

G2. Based on:

- (a) his actual knowledge:
 - (i) as particularised in Annexure E;

- (ii) by on or around 5 November 2021, that the ASX was making enquiries as to whether EML needed to reiterate FY22 Guidance [EML.0040.0016.5480];
- (iii) by on or around 13 November 2021, that:
 - (A) “Cash flow - you've got concerns on this as discussed, pack shows 66.5%, cash flow YTD October is 11m negative, so don't know how the math works to get us to 80-90%... If you expect it to be weaker because we are spending more than we have previously, guide for 65-70% and just call it out now and get it over with... unlikely it makes a different but protect for the downside where the numbers look ok but we "miss" on cash flow and the whole debate on breakage starts again.” [EML.0042.0034.1701];
 - (B) “whilst we continue to have reasonable confidence in our forecasting ability, this year is particularly challenging to predict (a) the outcomes of the seasonal volumes for Gift & Incentive segment, (b) the outcomes of the CBI investigation and consequential impacts on trading” [EML.0042.0034.1703]
- (iv) that following 25 November 2021, PCSIL had still not taken steps to propose a reduction in card limits which was acceptable to the CBI to reduce its ML/TF risk until the remediation plan had been completed;
- (v) by on or around 8 December 2021, that because of the cost of the remediation of PCSIL's AML/CTF control framework, increased budgets may require a “downward revision to guidance” [EML.0042.0014.1165];
- (vi) by on or around 14 January 2022, from the 14 January 2022 Letter, that the CBI sought information and clarification in relation to PCSIL's limits recalibration;
- (vii) by 17 January 2022:
 - (A) the YTD EBITDA figure of \$22,350,000 against FY22 Guidance EBITDA forecast for 1H22 of \$25,662,000;
 - (B) by 17 January 2022, the FY22 EBITDA was forecast to be AUD\$47,789,000 [EML.0042.0033.3016];

- (viii) by 18 January 2021, that 1H22 EBITDA was \$22,350,000, which was “worse than [Cregan] I thought it would be, had hoped for \$24 – 25 [million]” [EML.0042.0033.3016];
 - (ix) by 14 February 2022, that the CBI investigation had impacted material growth and had “impacts on customers in terms of delays in launching new customer or not launching at all, and has also impacted on sign on/ set up fees negatively” [EML.0042.0026.2425] and [EML.0042.0020.2509];
 - (x) by on or around 3 March 2022, from the 3 March 2022 Letter, that CBI had outlined a number of concerns in relation to the limits review program;
- (b) his role as EML’s Group Chief Financial Officer;
 - (c) his role as a member of the CBI Steer Co; and/or
 - (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the Second Guidance Inability Information on and from 25 November 2021 (or alternatively from each date after 25 November 2021) until 26 April 2022. To the extent particulars are given by reference to documents post-dating 25 November 2021, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

As to paragraph 264(b):

- G3. On 25 November 2021, EML had made the statements pleaded in paragraph 194 above.
- G4. Each of the statements set out in paragraph G3 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- G5. The Second Guidance Inability Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statement in paragraph G3 above, and further, or alternatively having regard to the representations made and continued by EML pleaded in paragraph 210 of the FASOC.
- G6. EML’s directors and officers knew that it made the statements set out in paragraph G3 above, that they had been made to the Affected Market as set out in paragraph G4 above, and having regard to the inherent nature of the Second Guidance Inability Information (being information of which they ought to have been aware, and paragraphs G1 and G2

are repeated) ought reasonably to have known that its disclosure was objectively likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

G7. Alternatively, during the Second Relevant Period from 25 November 2021 to 26 April 2022:

- (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs G1 above.
- (b) Having regard to paragraph G6 above, EML's directors and officers who had the actual knowledge as set out in paragraph G1(a) and G2(a) above failed to:
 - (i) consider whether their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph G3 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares;
 - (ii) consider whether their actual knowledge gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
 - (iii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge:
 - (A) qualified or contradicted all or any of EML's statements set out in paragraph G3 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Second Guidance Inability Information to be disclosed; and/or
 - (B) gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

G8. Alternatively, having regard to paragraph G6 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge as set out in paragraphs G1(a) and G 2(a) above:

- (a) considered whether their actual knowledge:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraph G3 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Second Guidance Inability Information to be disclosed; and
 - (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether:
 - (i) their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph G3 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Second Guidance Inability Information to be disclosed; and/or
 - (ii) gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- G9. Alternatively, having regard to paragraph G6 above, EML's directors and officers who did not have actual knowledge as set out in paragraph G7 above failed to obtain that information which they ought to have obtained in the course of their duties and:
- (a) consider whether it qualified or contradicted all or any of EML's statements set out in paragraph G3 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Second Guidance Inability Information to be disclosed; and/or
 - (b) consider whether it gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and/or
 - (c) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraph G3 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and

then causing the Second Guidance Inability Information to be disclosed;
and/or

- (ii) gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Second Guidance Inability Information to be disclosed.

G10. Alternatively, having regard to paragraph G6 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual knowledge as set out in the particulars to paragraphs G1(a) and G2(a) obtained that information which they ought to have obtained in the course of their duties and:

- (a) considered whether their knowledge so obtained gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the Second Guidance Inability Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Second Guidance Inability Information to be disclosed.

Annexure H (Revised PCSIL Remediation Timing Information)

As to paragraph 269(a):

Cregan

H1. Cregan had actual knowledge:

- (a) by the dates of the matters particularised in paragraph C1 of Annexure C for the reasons there particularised;
- (b) by at least 20 February 2022 that:
 - (i) the CBI “just wants to keep their foot on our throat rather than commending us on the improvements we have made”;
 - (ii) “the CBI is setting us up and laying the groundwork for tells us that our remediation efforts will not finish by June 30, even though that is the date we have advised the market and that we are working to internally” [EML.0045.0015.5968];
- (c) by at least 23 February 2022:
 - (i) “we’ve told shareholders that we would aim to complete the remediation project by June 30, and obviously that’s an incorrect statement based on the time frames below” [EML.0042.0032.5945];
- (d) by at least 24 February 2022 “I don’t know why we have said publicly that we would finish the remediation effort by June 30 when this, on current funding, will finish 9 months later and with additional funding would still take 6 months, so we’ve not joined the dots on that frankly” [EML.0035.0017.9438];
- (e) by on or around 2 March 2022 by reason of the board meeting held that date that the PCSIL remediation programme was “tracking amber to red” being colours which indicated that expected delivery timeframes would not be met;
- (f) by on or around 3 March 2022 that “we said in the 1H ASX report that the remediation plan would be complete by June 30 and as it stands now that is an incorrect statement, which we address by issuing an ASX-clarification or we spend more with HCL to clear the backlog at an expedited rate. The latter will impact our financials but it’s a Hobsons choice scenario” [EML.0082.0001.1386];

- (g) by on or around 3 March 2022 by reason of the CBI Steer Co meeting held that day that:
- (i) tasks remained significantly incomplete notwithstanding extended completion dates which had passed or were due in a matter of weeks or months;
 - (ii) there was a high risk that PCSIL would not be able to hire the appropriate resources to manage and/or execute the AML/CTF workstream activities of the remediation plan;
 - (iii) there was a high risk that PCSIL would not be able to retain employees with key business knowledge;
 - (iv) the risks of failing to recruit required board members and personnel for PCSIL was medium to high; and
 - (v) PCSIL was required to provide data on inherent risks and controls which would take 6-8 weeks for PCSIL's IT function to assess "how and if the information can be provided" [EML.0064.0050.2563] and EML.0098.0255.8372];
- (h) by on or around 4 March 2022:
- (i) on the "current trajectory" the remediation plan won't complete until March 2023;
 - (ii) "the more we remediate the more problems we find";
 - (iii) "telling the market we are in fact several months behind a June 30 date would rock confidence in an already shaky share price. After June 30 we still need to embed new processes and have the independent assurance piece, so Dolores was of the view that the CBI wouldn't sign off until March next year" [EML.0042.0032.4976] and [EML.0082.0001.1515];
- (i) by on or around 5 March 2022 that "the state of the remediation process as Tom's news and the latest CBI letter are concerning" [EML.0082.0001.1515];
- (j) by on or around 15 March 2022, alternatively on or around 29 March 2022, by reason of the CBI Steer Co meeting held on 15 March 2022, that tasks remained significantly incomplete notwithstanding extended completion dates which had

passed or were due in a matter of weeks or months [EML.0035.0016.1791]; and EML.0035.0016.1621];

- (k) by on or around 9 April 2022 by reason of the 9 April 2022 Email that:
- (i) the CBI had again raised the issue of timelines and sequencing of actions;
 - (ii) the CBI considered that it was imperative that the ML/TF risk assessment be completed before developing controls;
 - (iii) the CBI continued to be concerned that PCSIL's remediation plan sequencing set out the completion of remediation of controls prior to the completion of the risk assessment;
 - (iv) the CBI was also concerned that under the remediation plan, the risk assessment was also completed in advance of the completion of a thorough review of distributor relationships and all customers;
 - (v) PCSIL was requested to submit an amended plan by 12 April 2022 which contained revised and credible timelines which reflected the need for each of the control areas to be re-reviewed and remediated following the completion of the risk assessment which should not be completed until after a comprehensive review of customers and distributors had been concluded;
 - (vi) the amended remediation plan should incorporate proposed timelines for the independent third-party review which should only be carried out after the remediation controls have been fully rolled out and embedded for a reasonable time;
- (l) by 11 April 2022 that "the CBI will maintain the material growth restrictions on us beyond December this year, because once we complete the independent assurance the CBI have to be satisfied that it is 'embedded, which is a subjective concept" and there is "no upside for the CBI to remove it or increase it" [EML.0045.0014.2058];
- (m) by on or around 12 April 2022 by reason of the CBI Steer Co meeting held that day that tasks remained significantly incomplete notwithstanding extended completion dates which had passed or were due in a matter of weeks or months [EML.0035.0015.7259 and EML.0035.0015.7113];

- (n) by on or around 26 April 2022 by reason of the CBI Steer Co meeting held that day that tasks remained significantly incomplete notwithstanding extended completion dates which had passed or were due in a matter of weeks or months [EML.0035.0015.9342 and EML.0042.0019.4872];
- (o) by at least 11 May 2022, that “the AML issues will not be resolved for 30.06.22” [EML.0051.0002.7721];
- (p) by at least 25 May 2022 that “we do have a very high risk that the material growth cap is retained beyond December, because under the instruction from the CBI the independent assurance has to prove that the remediation program is fully remediated (which she agrees will never happen) and fully embedded (which would take years), so a very high risk of that restriction being in place after December, which would cripple our growth” [EML.0035.0020.2698];
- (q) by at least 30 May 2022 that “in the directions we have received from the CBI the independent assurance has to demonstrate that the issues have been fully remediated and fully embedded, and that neither of those are practical – but the CBI won’t be satisfied by December that the remediation plan is fully embedded and therefore the growth cap remaining in place is a significant likelihood and massive business risk” [EML.0035.0020.3587];
- (r) by on or around 16 June 2022 by reason of the 16 June 2022 Letter that:
 - (i) it was the CBI’s view that PCSIL’s progress on remediation to date was limited;
 - (ii) the CBI had identified a number of significant shortcomings in PCSIL’s approach to, and in particular the sequencing and timelines of its remediation programme;
 - (iii) the CBI considered that PCSIL had continued to experience high staff turnover in its senior functions and had not yet identified a permanent chief executive officer who, together with the Board, were critical to drive forward and embed a comprehensive and effective remediation programme;
 - (iv) the CBI considered it unlikely that PCSIL would fully remediate the identified deficiencies and obtained the necessary third party assurance in respect of the satisfactory and effective completion and embedding of a remediation program by 8 December 2022, the date on which the current direction was due to expire;

- (v) the CBI considered that PCSIL's updated remediation plan slides which were submitted to the CBI on 3 May 2022 did not take into account the feedback provided by the CBI and failed to take a holistic and risk based approach to address the significant issues identified in PCSIL's AML/CTF framework;
- (vi) the CBI was of the view based on the level of progress by PCSIL to date in its remediation and the sequencing and timelines proposed in the remediation plan that PCSIL did not appropriately understand the high and inherent level of ML/TF risk in its business;
- (vii) the CBI did not believe that PCSIL had the ability to have a robust, risk-based, legally compliant and effective AML/CTF framework embedded and independently verified by 8 December 2022 [EML.0035.0019.9138], [EML.0035.0019.9139] and EML.0045.0018.1556].

H2. Based on:

- (a) Cregan's actual knowledge;
- (b) his role as a member of the CBI Steer Co;
- (c) his role as Managing Director and Group Chief Executive Officer; and/or
- (d) adequate compliance and reporting structures within EML,

Cregan ought to have been aware of the Revised PCSIL Remediation Timing Information on and from 16 February 2022 (or alternatively from each date after 16 February 2022) until 11 July 2022. To the extent particulars are given by reference to documents post-dating 16 February 2022, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Shore

H3. Shore had actual knowledge:

- (a) by the dates of the matters particularised in paragraph H1 above, of the matters particularised therein, for the reasons there particularised, save for:
 - (i) subparagraphs H1(a) (to the extent subparagraph H1(a) refers to subparagraphs C1(b), C1(d) to C1(o), C1(q) to C1(t), C1(v) to C1(x), C1(cc), C1(ee) and C1(ff) of Annexure C); and

- (ii) subparagraphs H1(b), H1(f), H1(k), H1(m) and H1(o).

H4. Based on:

- (a) Shore's actual knowledge;
- (b) his role as EML's Group Chief Financial Officer;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Shore ought to have been aware of the Revised PCSIL Remediation Timing Information on and from 16 February 2022 (or alternatively from each date after 16 February 2022) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 16 February 2022, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Betts

H5. Betts had actual knowledge:

- (a) by the dates of the matters particularised in paragraph H1 above, of the matters particularised therein, for the reasons there particularised, save for:
 - (i) subparagraphs H1(a) (to the extent subparagraph H1(a) refers to subparagraphs C1(q) to C1(s), C1(u) to C1(w), C1(ee) and C1(ff) of Annexure C); and
 - (ii) subparagraphs H1(f), H1(h), H1(i) and H1(l).

H6. Based on:

- (a) Betts' actual knowledge;
- (b) his role as EML's Group Chief Risk Officer;
- (c) his role as interim director of PCSIL; and/or
- (d) adequate compliance and reporting structures within EML,

Betts ought to have been aware of the Revised PCSIL Remediation Timing Information on and from 16 February 2022 (or alternatively from each date after 16 February 2022) until 25 July 2022. To the extent particulars are given by reference to documents post-

dating 16 February 2022, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Wenk

H7. Wenk had actual knowledge:

- (a) by the dates of the matters particularised in paragraph H1 above, of the matters particularised therein, for the reasons there particularised, save for:
 - (i) subparagraphs H1(a) (to the extent subparagraph H1(a) refers to subparagraphs C1(b), C1(d) to C1(g), C1(l) to C1(x) and C1(ee) of Annexure C); and
 - (ii) subparagraphs H1(i) and H1(m).

H8. Based on:

- (a) Wenk's actual knowledge;
- (b) his role as EML's General Counsel and Joint Company Secretary;
- (c) his role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Wenk ought to have been aware of the Revised PCSIL Remediation Timing Information on and from 16 February 2022 (or alternatively from each date after 16 February 2022) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 16 February 2022, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Tissera-Isaacs

H9. Tissera-Isaacs had actual knowledge:

- (a) by the dates of the matters particularised in paragraph H1 above, of the matters particularised therein, for the reasons there particularised, save for:
 - (i) subparagraphs H1(a), H1(c), H1(d), H1(e), H1(g), H1(j), H1(k), H1(m), H1(n), H1(o), H1(p) and H1(q).

H10. Based on:

- (a) Tissera-Isaac's actual knowledge;
- (b) her role as EML's Head of Corporate Governance, Joint Company Secretary and Company Secretary;
- (c) her role as a member of the CBI Steer Co; and/or
- (d) adequate compliance and reporting structures within EML,

Tissera-Isaacs ought to have been aware of the Revised PCSIL Remediation Timing Information on and from 16 February 2022 (or alternatively from each date after 16 February 2022) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 16 February 2022, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

Evans

H11. Evans had actual knowledge:

- (a) by the dates of the matters particularised in paragraph H1 above, of the matters particularised therein, for the reasons there particularised, save for:
 - (i) subparagraphs H1(a) (to the extent subparagraph H1(a) refers to subparagraphs C1(a) to C1(k), C1(m) to C1(n) and C1(v) of Annexure C); and
 - (ii) subparagraphs H1(b), H1(d), H1(e), H1(f), H1(h), H1(i), H1(m), H1(p), H1(q) and H1(r).

H12. Based on:

- (a) Evan's actual knowledge;
- (b) her role as Chief Executive Officer of EML Europe, Middle East and Africa;
- (c) interim Chief Executive Officer of PCSIL;
- (d) her role as a member of the CBI Steer Co; and/or
- (e) adequate compliance and reporting structures within EML,

Evans ought to have been aware of the Revised PCSIL Remediation Timing Information on and from 16 February 2022 (or alternatively from each date after 16 February 2022) until 25 July 2022. To the extent particulars are given by reference to documents post-dating 16 February 2022, those particulars are relied upon in relation to allegations of knowledge on and from the dates referred to in those documents.

As to paragraph 269(c):

- H13. On 16 February 2022, EML had made the statements pleaded in paragraph 197 above.
- H14. Each of the statements set out in paragraph H13 above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.
- H15. The Revised PCSIL Remediation Timing Information was objectively likely to influence investors and potential investors who were considering whether to buy or sell EML Shares by reason of the content of that information alone, and further, or alternatively having regard to the contents of the statements in paragraph H14 above, and further, or alternatively having regard to the representations made and continued by EML pleaded in paragraph 228 above.
- H16. EML's directors and officers knew that it made the statements set out in paragraph H13 above, that they had been made to the Affected Market as set out in paragraph H14 above, and having regard to the inherent nature Revised PCSIL Remediation Timing Information (being information of which they ought to have been aware, and paragraphs H1, H3, H5, H7, H9 and H11 are repeated) ought reasonably to have known that its disclosure was objectively likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.
- H17. Alternatively, during the Second Relevant Period from 16 February 2022 to 25 July 2022:
- (a) some of EML's directors and officers had actual knowledge of the matters in paragraphs H1, H3, H5, H7, H9 and H11 above.
 - (b) Having regard to paragraph H16 above, EML's directors and officers who had the actual knowledge as set out in paragraph H17 above failed to:
 - (i) consider whether their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph H13 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares;

- (ii) consider whether their actual knowledge gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares; and
- (iii) communicate their actual knowledge to all EML directors and officers (and those persons with responsibility for EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether the actual knowledge:
 - (A) qualified or contradicted all or any of EML's statements set out in paragraph H13 above so as to be likely to influence investors or potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Revised PCSIL Remediation Timing Information to be disclosed; and/or
 - (B) gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

H18. Alternatively, having regard to paragraph H16 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who had actual knowledge of the matters in paragraphs H1, H3, H5, H7, H9 and H11 above:

- (a) considered whether their actual knowledge:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraph H13 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Revised PCSIL Remediation Timing Information to be disclosed; and
- (b) communicated their knowledge to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether:
 - (i) their actual knowledge qualified or contradicted all or any of EML's statements set out in paragraph H13 above so as to be likely to influence investors and potential investors who were considering whether to buy or

sell EML Shares, so concluding and then causing the Revised PCSIL Remediation Timing Information to be disclosed; and/or

- (ii) gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors or potential investors who were considering whether to buy or sell EML Shares.

H19. Alternatively, having regard to paragraph H16 above, EML's directors and officers who did not have actual knowledge as set out in paragraph H17 above failed to obtain that information which they ought to have obtained in the course of their duties and:

- (a) consider whether it qualified or contradicted all or any of EML's statements set out in paragraph H13 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Revised PCSIL Remediation Timing Information to be disclosed; and/or
- (b) consider whether it gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and/or
- (c) communicate it to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it:
 - (i) qualified or contradicted all or any of EML's statements set out in paragraph H13 above so as to be likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Revised PCSIL Remediation Timing Information to be disclosed;
 - (ii) gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the Revised PCSIL Remediation Timing Information to be disclosed

H20. Alternatively, having regard to paragraph H16 above, EML failed to ensure that its systems involved processes to ensure that those EML directors and officers who did not have actual

knowledge obtained that information which they ought to have obtained in the course of their duties and:

- (a) considered whether their knowledge so obtained gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares; and
- (b) communicated their knowledge so obtained to all EML directors and officers (and those persons with responsibility for monitoring EML's compliance with ASX Listing Rule 3.1) so that EML could properly consider whether it gave rise to them being aware of the Revised PCSIL Remediation Timing Information, and whether it was likely to influence investors and potential investors who were considering whether to buy or sell EML Shares, so concluding and then causing the revised PCSIL Remediation Timing Information to be disclosed.

Annexure I (Glossary)

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7.	13 May 2021 Report	88(g)
8.	13 May 2021 Teleconference	85
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11.	16 August 2021 Email	125
12.	16 February 2022 Announcement	195(a)
13.	16 February 2022 Investor Call	195(c)
14.	16 February 2022 Presentation	195(b)
15.	16 June 2022 Letter	156
16.	17 August 2021 ASX Announcement	180(b)
17.	17 August 2021 Presentation	180(a)
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