

Article Information

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Service: Capital Markets & Capital Raisings, Corporate & Commercial

Update: ANZ to Appeal Court Findings on Shortfall Allocation Disclosure

There have been two developments since we published the alert below in October:

- The Federal Court imposed a penalty of \$900k on ANZ for failure to disclose that about \$750 million of its \$2.5 billion capital raising in 2015 was purchased by Citigroup, Deutsche Bank and JP Morgan, and ordered that ANZ pay ASIC's costs; and
- ANZ has filed notice of intention to appeal.

As to why ANZ would choose to appeal this small fine in relation to events that took place 8 years ago, ANZ's Chief Risk Officer, Kevin Corbally, said:

"Given the importance of continuous disclosure laws, there is benefit for financial market participants in obtaining guidance from the Full Federal Court"

Although the \$900k fine is relatively small in the context of a \$2.5 billion capital raising, it is towards the upper end of the scale available to the Court for matters that occurred in 2015. To this point, ASIC Deputy Chair, Karen Chester said:

"If such a contravention occurred today, the maximum penalty could be anywhere between \$15 million to \$780 million"

We will provide further updates as they unfold if ANZ does follow through with its intention to spend further moneys on this matter for the benefit of the "public interest".