

Infringement notice

Section 12GXA of the *Australian Securities and Investments Commission Act 2001*

Day of issue: 4 July 2014

Unique identification code: B782159

TO: Esuperfund Pty Ltd
ACN 120 328 770
HWT Tower
Level 23, 40 City Road
SOUTHBANK VIC 3006

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (**ASIC Act**).
2. ASIC has reasonable grounds to believe that Esuperfund Pty Ltd (**Esuper**) has contravened an infringement notice provision as follows:

Between 31 January 2014 and 8 May 2014, Esuper contravened section 12DB(1)(e) of the ASIC Act by, in trade or commerce, in connection with the supply or possible supply of financial services or in connection with the promotion by any means of the supply or use of financial services, making a false or misleading representation (in the same form or substantially the same form as **Annexure A** – extract from the Esuper website titled "Why Us" (**Why Us page**)) on its website <http://esuperfund.com.au> as to the sponsorship and approval characteristics and benefits of the services offered by Esuper.

Particulars

Under the heading "Benefit 22: Reputable Since 2006" on the Why Us page, a representation was made that ASIC annually reviewed Esuper's operations to ensure that Esuper complied with all of its licensing obligations.

The representation contained in the Why Us page was false or misleading because ASIC does not annually review Esuper's operations to ensure that they are compliant with its licensing obligations.

Penalty under this notice

3. The penalty payable under this notice in relation to the alleged contravention is \$10,200.

This penalty is payable to ASIC on behalf of the Commonwealth.

This penalty can be paid using one of the methods detailed in the enclosed invoice.

Consequences of complying with this notice

4. If you pay the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
 - (a) no proceedings (whether criminal or civil) will be brought against you by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
 - (b) you will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.

Consequences of failing to comply with this notice

5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, the Commonwealth or ASIC may bring proceedings under Subdivision G of Division 2 of Part 2 (the consumer protection provisions of the ASIC Act, whether criminal or civil) against you for the alleged contravention of the infringement notice provision or offence constituted by the same conduct.
6. The maximum pecuniary penalty that a court may order you to pay for the alleged contravention is \$1,700,000.

Time for payment

7. The time for payment is:
 - (a) within 28 days beginning on the day after the day on which the notice is issued to you; or
 - (b) if ASIC extends, by notice in writing the compliance period for this notice, within that further period allowed.

Applying for more time to pay the penalty under this notice

8. ASIC may extend the compliance period for this infringement notice if ASIC is satisfied that it is appropriate to do so. The extension must not be for longer than 28 days.
9. If you wish to apply for an extension of time to pay the penalty specified in this notice, it should do so in writing within 28 days after the day the notice is issued to you (see paragraph 15).

Applying to have this notice withdrawn

10. Within 28 days beginning on the day after the day on which this notice is issued, you may apply to ASIC in writing to have this notice withdrawn.
11. Evidence or information that you or your representative gives to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against you or your representative in any proceedings (other than proceedings for an offence based on the evidence or information being false or misleading).

Withdrawal of this notice

12. ASIC may, by written notice given to you, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not you have applied to have this notice withdrawn.
13. A withdrawal notice must be given to you within the time for payment of this infringement notice to be effective.
14. If the withdrawal notice is given after you have paid the penalty specified in this infringement notice, ASIC will refund to you the amount paid under the infringement notice.

Requirements for applications

15. An application to have this notice withdrawn, or for more time to pay the penalty under this notice:
 - (a) must be in writing; and
 - (b) must include the unique identification code set out at the top of this notice; and
 - (c) must include your reasons for making the application; and
 - (d) may be made by forwarding your application to ASIC at the address in paragraph 16.
16. You may contact ASIC in relation to this notice by contacting:

contact: Alana Giles

by mail: Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3000

or by facsimile: 03 9280 3444

or by email: ACLInfringementNotices@asic.gov.au



Signature of delegate issuing the notice

Peter Kell
as a delegate of the Australian Securities and Investments Commission

ANNEXURE A

Extract from Esuper website titled "Why Us"



[Interactive](#) |
 [Articles](#) |
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 [Contact Us](#) |
 [APPLY NOW](#)

[Home](#) |
 [Fees](#) |
 [Investments](#) |
 [Bank](#) |
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 [Term Deposits](#) |
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Wednesday 30 April 2014

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Why Us



The Top Features and Benefits of using the ESUPERFUND SMSF Service are detailed below:

Benefit 1: FREE SMSF Setup

When you apply online to establish an SMSF, ESUPERFUND will mail to you all the required documentation necessary to establish the SMSF. Under our current promotional offer it is absolutely FREE to establish a SMSF with ESUPERFUND. Further details can be found [here](#).

Saving: Save \$699.

Benefit 2: FREE First Year Fee

Under our current Promotional Offer, the First Years annual compliance fee is FREE. That is the fee to attend to the SMSF's first years annual compliance obligations is FREE. This is a saving of \$699. For the following Financial Year, ESUPERFUND attends to all the taxation and accounting obligations including the audit for your SMSF for an annual fixed fee of \$699 per annum (GST inclusive), Irrespective of the number of transactions made by your SMSF, the size of your SMSF or the number of Members. Our Annual Fee includes attending to ALL annual compliance obligations for your SMSF. Further details can be found [here](#).

Saving: Save \$699.

Benefit 3: \$699 Annual Fee - 80% below market

Our annual compliance fee is \$699 per annum. A review of the marketplace indicates that other SMSF providers charge between \$1,500 and \$5,000 to administer your SMSF. In most cases our competitors quote only their base fees that increase the more transactions or investments your SMSF has. At ESUPERFUND our price is FIXED at \$699 per annum whether your SMSF has 10 or 1,000 transactions per annum. ESUPERFUND is a volume based business that has invested significant capital to streamline its systems and processes resulting in material efficiency savings which are passed on to clients. To further understand how we can keep our fees so low relative to other providers visit our Articles "[Tonic for the Sceptics](#)" and "[If it's too good to be true...](#)" now. Further details can be found [here](#).

Saving: Save \$1,000 to \$5,000 per annum.

Benefit 4: FREE Pension Commencement

Once you turn 55 you are permitted to commence a Pension Income Stream from your SMSF. Importantly when you start a Pension in your SMSF you will never pay tax on realised capital gains (such as profit on share sales) and earnings in the SMSF (such as interest and dividends) again. For example assume you have a balance of \$500,000 in the SMSF earning 8% per annum in realised capital gains and income (ie \$40,000 per annum). In this example you will pay \$0 tax when you start a Pension on this income. This compares to up to 15% if you do not start a Pension saving you \$6,000 in tax! It's the only legal way to eliminate tax left! Even better ESUPERFUND will setup a Pension absolutely FREE! This compares to market rate to setup a Pension of \$500 per Member. This means you can save \$1,000 or more if you have 2 or more Members in the SMSF and want to setup a Pension. Further details can be found [here](#).

Saving: Save \$1,000 or more.

Benefit 5: FREE Ongoing Pension Administration

When you commence a Pension in your SMSF there are a range of additional compliance requirements necessary each year. These additional compliance requirements are all attended to by ESUPERFUND ensuring your SMSF continues to receive Tax Free Income and Capital Gains. Importantly the additional compliance requirements are absolutely FREE and are covered by our standard annual fee of \$699 per annum! This is unprecedented in today's market who will typically charge \$500 and more for the additional workload per Member. Further details can be found [here](#).

Saving: Save \$1,000 or more per annum.

Benefit 6: FREE Automatic Pension and Accumulation Account Merge

Every SMSF Member has a Pension and Accumulation Account. The total of these Accounts make up the Member's total Superannuation Balance in the SMSF. At 30 June each financial year ESUPERFUND will review your Member Super Balance including both the Accumulation and Pension Accounts. Where you have either Multiple Pension Accounts established or a balance in both your Accumulation and Pension Accounts, ESUPERFUND will automatically merge these accounts to ensure your Benefit retains its tax free status. This can save you thousands of dollars in tax annually. This service is absolutely FREE!

Logins



Applications

[New SMSF](#)
[Existing SMSF](#)
[Simple Pension](#)
[TRAP](#)
[More Applications](#)

Documents

[ATO Rollover Form](#)
[Standard SMSF Minute](#)
[Investment Strategy](#)
[More Documents](#)

This is unprecedented in today's market who will typically charge \$500 and more for the additional workload per Member. Further details can be found [here](#).

Saving: Save \$1,000 or more.

Benefit 7: FREE PAYG Documentation

If you commence a Pension and are aged between 55 and 59, the Pension Income you access must be declared in your personal Income Tax Return. To do this the SMSF must provide to each Member aged between 55 and 59 PAYG documentation detailing the amounts withdrawn that must be declared in your Tax Return. The PAYG documentation including the calculation of the relevant taxation and rebate amounts to include in your Tax Return are prepared by ESUPERFUND absolutely FREE of charge! This is unprecedented in today's market who will typically charge \$500 and more for the additional workload per Member

Saving: Save \$1,000 or more per annum.

Benefit 8: FREE Binding Death Agreements

To ensure your Super Benefit is distributed in accordance with your wishes on death all SMSF Members should execute a Binding Death Agreement. ESUPERFUND allows you to do this conveniently on our website for FREE! This compares to a market rate of \$100 per Member. Further details can be found [here](#).

Saving: Save \$200.

Benefit 9: FREE Trustee Changes

If you need to add or remove Trustees from your SMSF, ESUPERFUND will arrange all the appropriate documentation for you, including updating account names and notifying the ATO. This service is absolutely FREE! This is unprecedented in today's market who will typically charge \$200 and more for this service!

Saving: Save \$200 per change.

Benefit 10: FREE Member Changes

If you need to add or remove Members from your SMSF, ESUPERFUND will arrange all the appropriate documentation for you, including updating account names and notifying the ATO. This service is absolutely FREE! This is unprecedented in today's market who will typically charge \$200 and more for this service!

Saving: Save \$200 per change.

Benefit 11: No Exit Fees

ESUPERFUND do not charge exit fees and you are free to leave at any time and for any reason. However if you terminate the services of ESUPERFUND prior to having paid at least one (1) year's annual compliance fee of \$699, then a fee of \$699 will apply. If you terminate the services of ESUPERFUND and have paid at least one (1) year's annual compliance fee of \$699, then NO fee will apply.

Benefit 12: Your Super is completely safe

Your Super Benefit is completely safe with ESUPERFUND. All SMSF Investments including the Transaction Bank Accounts and Broker Accounts are established in the name of your SMSF. This is a very important point and gives you total peace of mind that your SMSF is the direct owner of the SMSF Investments. ESUPERFUND do not have any access to your Bank or Broker Accounts either directly or indirectly. So in the very unlikely event we cease to operate or trade or become insolvent, all your SMSF Investments are totally protected and secure because your SMSF is the direct owner of the assets. It is important to understand that only you as the Trustee for the SMSF can access your SMSF accounts.

Benefit 13: Investment Choice

Clients of ESUPERFUND have a complete range of investments to choose from to invest their Super Benefit including Cash, Term Deposits, Online Savings Accounts, ASX Listed Securities, Property, Exchange Traded Options, CFDs, Australian and International Managed Funds, Bonds, Metals, Commodities, FX, International CFDs and more. Clients can even borrow to invest in Residential and Commercial Property. For more on Investments Allowed under the ESUPERFUND Platform [here](#).

Benefit 14: Trade Shares from \$19.95

ESUPERFUND clients can choose to trade CHESSE Sponsored Australian Shares through either CommSec or the recently introduced EBROKING Trading Platforms from as little as \$19.95 per trade. For more click [here](#).

Benefit 15: Trading Choice

Importantly once your SMSF is established you can add Optional Brokers approved by ESUPERFUND in addition to the Compulsory Broker selected by you when your SMSF is established (i.e. CommSec or EBROKING). These additional Approved Optional Brokers allow you to expand your trading options to include International Shares (including Non CHESSE Sponsored Australian Shares), CFDs, Options, Warrants, Futures and Forex. These additional Approved Optional Brokers are discussed in detail [here](#).

Benefit 16: Term Deposit Service

ESUPERFUND has established direct arrangements with a number of Institutions allowing clients to easily apply to invest in Term Deposits online with ING Direct, AMP, ANZ and Macquarie Bank. The ESUPERFUND Term Deposit Service is provided to

simplify the Term Deposit Application Process. It is **not** compulsory and you can Invest in Term Deposits directly with any Bank you choose if preferred. Further details can be found [here](#).

Benefit 17: Borrow to Buy Property

Clients of ESUPERFUND are permitted to borrow invest in Australian Residential and Commercial Property. Importantly ESUPERFUND attends to the entire setup process of your SMSF Property Purchase and Loan Establishment. In addition our annual compliance fee remains at \$699 per annum. This is unprecedented in the marketplace who will charge additional fees upwards of \$1,000 for clients who invest in property particularly with borrowings in a SMSF. Further details can be found [here](#)

Saving: Save \$2,000 or more.

Benefit 18: Leverage Investments with CFDs

You can now legally leverage your trading using CFDs. CFDs are powerful leveraged instruments that can give you maximum exposure for minimum outlay. CFDs allow you to trade ASX Shares, International Shares, Sectors, Indices, Interest Rate Securities, Commodities and Foreign Exchange using a single trading account. For example you can trade some of Australia's most popular stocks with as little as 3% margin. This means for example that you can purchase \$10,000 worth of say BHP for only a \$300 margin payment. This gives you maximum leverage to maximise your returns. But always be careful because the higher your leverage the more potential for gains and losses! To lessen the risk many clients leverage more conservatively. For example in the above example you may purchase \$10,000 worth of BHP but contribute \$5,000 in equity to maximise your equity and lessen your leverage risk. To avoid all leverage risk then you can contribute the full cost of the trade as a margin payment. For details about Maximum Margin Rates click [here](#).

Benefit 19: Tax Effective Insurance

ESUPERFUND has launched a new Online Insurance offering using AIA that simplifies the Insurance underwriting process using by using a Straight Through Online Insurance Application Platform. You simply need to visit the AIA Online Insurance Application, answer 10 or so simple questions, and the system will instantly provide you with an Insurance Quote. In most cases if you accept the Insurance Quote provided you will be instantly covered. No medicals will be required. This is unprecedented in the marketplace and makes the Insurance Application process easy. In some cases depending on your personal circumstances you may need to provide more information or undertake a medical examination. The Online Insurance Application will automatically advise you if this is the case and a representative of AIA will contact you to finalise the Insurance Application process. For more click [here](#).

Benefit 20: Electronic Access to Documentation

To ensure that the SMSF annual compliance obligations can be met, your SMSF must maintain appropriate documentation including rollover documentation, contribution details, share contracts, dividend and managed fund distribution statements and so on. As a client of ESUPERFUND you are **not** required to retain or provide source documentation relating to most of your SMSF Investments. For example for all Share Trades and Bank Transactions, ESUPERFUND receive electronic confirmation of all transactions, so no records are required from you each year as we already have access to them. Importantly the information we receive is only electronic transaction data and we have absolutely no access to your Share Trading or Transaction Bank Accounts. Only you as the SMSF Trustee can login and transact on your accounts. This gives you total peace of your mind your super monies are totally secure.

Benefit 21: ESUPERFUND handles All Annual Compliance Requirements

ESUPERFUND attends to ALL the annual compliance requirements for your SMSF including the Financial Statements, Member Statements, Tax Return and Audit. You do not need to arrange for another accountant to attend to any additional reporting as it is all attended to and completed by ESUPERFUND.

Benefit 22: Reputable Since 2006

ESUPERFUND is a pioneer in online Self Managed Superannuation in Australia and has helped thousands of SMSF Investors establish and manage their own SMSF since the year 2006. ESUPERFUND is licensed through the Australian Securities and Investments Commission (AFSL Number 340762). Our ASIC details can be found [here](#). Similarly ESUPERFUND is also licensed with the Australian Taxation Office as a Registered Taxation Agent enabling us to provide SMSF Tax Services. Our registration can be found [here](#). Importantly the ATO and ASIC annually review our operations to ensure that we comply with all our taxation and licensing obligations giving you total peace of mind you are receiving a professional and safe service.

Benefit 23: No Minimum Balance

A common rule of thumb in the superannuation industry is that you should have \$200,000 in Super Benefits prior to establishing a SMSF. Some administrators actually require you to have a minimum amount in order to commence a SMSF, usually \$100,000 or more. Conveniently these same administrators charge you on a percentage basis which can add unnecessary fees to your annual fee. There is actually no legal minimum balance to establish a SMSF. You can establish a SMSF with ESUPERFUND with any amount desired. For more visit our article "The \$200,000 SMSF Myth" [here](#).

Benefit 24: Access Extensive Learning Centre

ESUPERFUND provides an extensive Learning Centre enabling you to educate yourself about establishing and running your own SMSF. Our Learning Centre is being constantly expanded and updated to meet your education needs. Our Learning Centre has recently been updated with extensive Questions and Answers allowing you to access real time answers to common SMSF queries you have. This is state of the art technology exclusive to ESUPERFUND. Further details can be found [here](#).

Benefit 25: Access to Special Offers

ESUPERFUND periodically will offer clients Special Offers not available in the marketplace. Clients will be informed of these offers as and when they arise.

Benefit 26: Partner only with Reputable Institutions

ESUPERFUND partners with only the largest and most reputable organisations. The rationale for this is to ensure that your Super benefit is secure.

Benefit 27: ESUPERFUND attends to all aspects of an ATO audit

Infrequently your SMSF may be audited by the ATO. An audit is not common however it can be a daunting experience for clients. Importantly ESUPERFUND will handle all issues associated with the audit and will liaise with the ATO directly for you. In fact in most cases you will not even be involved and the audit issues will be attended to by ESUPERFUND. For example the ATO may request evidence of the SMSF such as the Trust Deed, documentation evidencing a Pension Setup or certain data in the SMSF Tax Return. We will deal with these queries for you and where possible ensure you are not bothered with these audit issues. This service is absolutely FREE! This is unprecedented in today's market who will typically charge \$500 and more for the additional audit work.

Saving: Save \$500 or more.

[SMSF Setup](#) | [Contact Us](#) | [About Us](#) | [Disclosures](#) | [FSG](#) | [Privacy](#)
ESUPERFUND Pty Ltd as Trustee for ESUPERFUND Trust ABN 37 842 535 715

General Advice Warning

The contents of this website are of a general nature only and have not been prepared to take into account any particular investor's objectives, financial situation or particular needs. ESUPERFUND does not provide financial product advice or recommend any financial products. This applies equally to those financial products which are established for your SMSF when you become a client of ESUPERFUND. Where this publication refers to a particular financial product then you should obtain a Product Disclosure Statement (PDS) relating to that product and consider the PDS before making any decision about whether to acquire the product. We also recommend that you should seek professional advice from a financial adviser before making any decision to purchase any financial product referred to on this website. While the sources for the material are considered reliable, responsibility is not accepted for any inaccuracies, errors or omissions.