

## INFRINGEMENT NOTICE

Day of issue:

Unique identification code: 12-20028A

TO: **City Index Australia Pty Ltd (ACN 141 774 727)**  
C/o- City Index Limited  
Chifley Tower, Suite 1502  
2 Chifley Square  
SYDNEY NSW 2000

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

**Between about 2 November 2011 and 20 February 2012, City Index Australia Pty Ltd (City Index), in trade or commerce, engaged in conduct in contravention of subsection 12DF(1) of the ASIC Act by publishing or authorising the publication of a webpage at <http://www.cityindex.com.au/client-money-protection.aspx> containing representations that client monies are “fully protected”, “always safe”, “Safe and Secure”, “are kept in a segregated account unless requested otherwise”, “will be held by us in trust for you at all times”, and that “you would be fully entitled to all of your account funds in the highly unlikely event of an insolvency”. The representations were inconsistent with the risks to, and possible uses of, client monies described in City Index’s Product Disclosure Statement and Customer Agreement, and accordingly, were liable to mislead the public as to the nature, the characteristic, or the suitability for their purpose of the financial services being offered.**

### **Penalty under this notice**

3. The applicable penalty in this notice is **\$6,600**.  
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the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):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) any liability you have for the alleged contravention of the infringement notice provision will be discharged; and

- (b) 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
- (c) 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 Part 2, Division 2 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 \$1.1 million.

### **Time for payment**

- 7. The time for payment is:
  - (a) within 28 days 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, you 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 after the day on which this notice is issued, you may apply to ASIC in writing to have this notice withdrawn (see paragraph 15).
- 11. Evidence or information that you give 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.

**Contact details**

16. You may contact ASIC in relation to this notice by contacting:

**Matthew Le**  
**Australian Securities and Investments Commission**  
**GPO Box 9827**  
**SYDNEY NSW 2001**  
**or by facsimile: (02) 9911 2414**  
**or by email: [ACLInfringementNotices@asic.gov.au](mailto:ACLInfringementNotices@asic.gov.au)**

Stephen Yen  
as a delegate of the Australian Securities and Investments Commission