



ASIC

Australian Securities & Investments Commission

INFRINGEMENT NOTICE

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

Day of issue: 4 September 2014

Unique identification code: A4204769

TO: National Australia Bank Limited
ACN: 004 044 937
Level 1
800 Bourke Street
Docklands VIC 3008

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (the *ASIC Act*) in respect of the conduct described in paragraph 2 below to the extent that it occurred in the period from 5 September 2013 to 11 August 2014.
2. ASIC has reasonable grounds to believe that you have contravened an infringement notice provision as follows:

From 17 June 2013 to at least until 11 August 2014 (the Relevant Period) you contravened section 12DF(1) of the ASIC Act by, in trade or commerce, engaging in conduct that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of financial services.

Particulars

ASIC is concerned that during the Relevant Period, you made the following representations in the Product Disclosure Statement for NAB Annuity Term Deposit dated 17 June 2013 (NAB PDS), including on page 6:

- (a) **The "*Fixed interest rate*" for the NAB Annuity Term Deposit is calculated on the principal amount invested by the investor on the commencement of their investment (referred to in the NAB PDS as the "*Investment*").**
- (b) **The "*Fixed interest rate*" for the NAB Annuity Term Deposit is referable to the average annual fixed interest rate earned on the Investment.**
- (c) **The total amount of interest received by the investor on the NAB Annuity Term Deposit is referable to the "*Fixed interest rate*" on the Investment.**

These representations were liable to mislead the public in that;

- (d) **The "*Fixed interest rate*" for the NAB Term Annuity Deposit is not calculated on the Investment but applies only to the balance of the principal outstanding and reducing from time to time.**
- (e) **The "*Fixed interest rate*" for the NAB Term Annuity Deposit is not referable to the average annual fixed interest rate earned on the Investment.**
- (f) **The total amount of interest received by the investor on the NAB Annuity Term Deposit is not referable to the "*Fixed interest rate*" on the Investment.**
- (g) **In Example 1 on page 6 of the NAB PDS, the average annual fixed interest rate earned on the Investment was 2.98% and not 5.41% as stated in the NAB PDS.**
- (h) **In Example 2 on page 6 of the NAB PDS, the average annual fixed interest rate earned on the Investment was 2.79% and not 5.09% as stated in the NAB PDS.**

Penalty under this notice

3. The penalty payable under this notice in relation to the alleged contravention is \$10,200.00.

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 \$1,700,000.00.

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.
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:

Cathy Lee

Australian Securities and Investments Commission

GPO Box 9827

Sydney NSW 2000

Or by facsimile: (02) 9911 2414

or by email: ACLInfringementNotices@asic.gov.au



Peter Kell

as a delegate of the Australian Securities and Investments Commission