

## INFRINGEMENT NOTICE

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

Day of issue: 10 December 2014

Unique identification code: B874434

TO: Como Financial Services Pty Ltd

ACN 101 393 435

YK Partners

Level 2, 545 King Street

West Melbourne VIC 3003

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 Como Financial Services Pty Ltd (**Como**) has contravened an infringement notice provision as follows:

Between 25 February 2014 and 3 October 2014 (**the relevant period**), Como contravened paragraph 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 false or misleading representations (in the same form or substantially the same form as **Annexure A – Find My Super Page**) on its website [www.goodsuper.com.au](http://www.goodsuper.com.au) (**Website**) as to the performance characteristics and uses of the services offered by the Good Super superannuation fund (**Good Super**).

#### Particulars

Como is the promoter of Good Super, and provides the Website in contract with Good Super Pty Ltd (ACN 163 522 058) - an Authorised Representative of Como.

During the relevant period, the Website contained the following representations:

- (a) '9,000+ Australians have used our Lost Super search';
- (b) 'Find your lost super for free\*';
- (c) 'Good Super will find your lost super, and if you want us to, consolidate it into one account'.

The representations were false or misleading as:

- (a) They suggest the service specifically locates 'lost superannuation' whereas the service does not discriminate between active and lost superannuation;

- (b) The representations prevent a consumer from correctly assessing their need for this service; and
- (c) The representations may induce consumers to join Good Super on the pretence that it will locate their lost superannuation only.

The statement further down the Webpage linked to the asterisk (“\*”) does not cure the misrepresentations as:

- (a) It is not prominent, is in small font and appears at the bottom of the Webpage; and
- (b) It relates to the word ‘free\*’ not the phrase ‘lost super’.

#### **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 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:

**Sarah Richter and/ or Philippa Kelly  
Australian Securities and Investments Commission  
GPO Box 9827  
MELBOURNE VIC 3000**

**Or by facsimile: 03 9280 3444**

**or by email: [ACLInfringementNotices@asic.gov.au](mailto:ACLInfringementNotices@asic.gov.au)**



*Signature of delegate issuing the notice*

Peter Kell

as a delegate of the Australian Securities and Investments Commission

# FIND MY SUPER FOR FREE\*

9,000+ Australians have used our Lost Super search. Free\* to search and on request we can consolidate all your super into a Good Super account.

**FIND MY SUPER**



## YOU MAY HAVE SUPER YOU DON'T KNOW ABOUT

### PAPERLESS

Many Australians have more than one superannuation account. Even if you currently only

### FREE\*

Multiple accounts each incur their own fees, making it harder for you to understand your overall

### SIMPLE

Consolidating your superannuation into one account with Good Super couldn't be easier.

Find my super - Good Super - Find lost super and consolidate for free

make contributions into one account, you may have money in other superannuation accounts — even some you don't know about.

Good Super can find all of these accounts for you for free\*. If you ask us, we can even consolidate them into one Good Super account electronically.

financial position. This is one of the many reasons people choose to rollover all their superannuation savings and consolidate everything into one account.

Free\* of charge, Good Super will find your lost super, and if you want us to, consolidate it into one account.

All you need is your Tax File Number and you can get started below.

It only takes 2 minutes and a few clicks.

#### AS FEATURED IN

THE AGE

THE AUSTRALIAN

The Sydney Morning Herald

BRW

## FIND MY SUPER

Sign up to Good Super today:

- ✓ Quick & simple
- ✓ Paperless
- ✓ Find your lost super for free\*

  
  
  

Would you like to rollover all

of your existing  
superannuation into Good  
Super?

Yes  Some  None

Next

\* For Good Super to conduct a free lost super search, you must be a member of Good Super. Our search results typically yield lost, unclaimed and active superannuation accounts. Joining Good Super is easy and takes less than 2 minutes. Initial and ongoing fees apply if you roll over all or some of your existing superannuation into Good Super. Membership of Good Super is subject to the [Product Disclosure Statement](#), the [Reference Guide](#) and the [Membership Terms and Conditions](#).

[Product Disclosure Statement](#) [Privacy Policy](#) [Terms and Conditions](#)  
[Forms and Documents](#)



Interests in Good Super, a division of max Super, are issued by Equity Trustees Limited (ABN 46 004 031 298). Before deciding to acquire or continue to hold this product you should consider the Product Disclosure Statement that is available here. Before making decisions you should consider how appropriate they are given your own objectives, financial situation and needs, because this website has been prepared without taking these into account.

Use of this website is subject to Good Super's Terms and Conditions and Privacy Policy.

This website is provided by Como Financial Services Pty Ltd (ABN 74 101 393 435, AFSL 289890), the promoter of Good Super, in contract with Good Super Pty Ltd (ABN 71 163 522 058, Authorised Representative No. 457455 of Como Financial Services).

Past performance is not indicative of future performance. Socially responsible investment considerations form part of and are subject to the overall Good Super Investment Strategy, which includes considerations of diversity and liquidity within an overall mandate emphasising positive and negative social responsibility considerations.

©2013 Good Super Pty Ltd. All Rights Reserved.