

INFRINGEMENT NOTICE

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

Day of issue: 10 December 2014

Unique identification code: B874443

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 subsection 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 and the suitability for their purpose of a financial service.

Particulars

Como is the promoter of the Good Super superannuation fund (**Good Super**), and provides the website www.goodsuper.com.au (**Website**) in contract with Good Super Pty Ltd (ACN 163 522 058) - an Authorised Representative of Como. The Website offers consumers a free superannuation search, which requires consumers to join Good Super. When consumers apply to join Good Super via the online application on the homepage (and similarly to search for lost superannuation on the Find My Super page of the Website), they are asked whether they would like to rollover all of their existing superannuation into Good Super. Consumers are given the option of selecting 'Yes', 'Some' or 'None'.

When consumers click 'None' the following warning appears, accompanied by the image of a warning sign:

'The more super funds you have, the more you may be paying in administration fees. By consolidating your super into one account, you could significantly reduce those fees.'

Como is engaging in a financial service for the purposes of subsection 12DF(1) by arranging for consumers to apply for and acquire membership of Good Super, and

dispose of their interests in other funds, via the Website it provides. The conduct is liable to mislead users of the Website as consumers are not provided sufficient time or directed to the appropriate tools to make the decision join Good Super because:

- (a) There is no reference to the initial fee Good Super charges to transfer superannuation into the fund;
- (b) There is no reference to the specific ongoing fees charged by Good Super;
- (c) There is no reference to the possible loss of insurance benefits to a consumer for transferring their superannuation into Good Super;
- (d) There is no direction to consumers to consider where their future employer contributions are paid; and
- (e) The only reason consumers are given to transfer their superannuation is that Good Super may locate lost super and that multiple superannuation funds may incur more administration fees.

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



Signature of delegate issuing the notice

Peter Kell

as a delegate of the Australian Securities and Investments Commission