



ASIC

Australian Securities & Investments Commission



S02070170

INFRINGEMENT NOTICE

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

Day of issue: 30 June 2015

Unique identification code: B983274

TO: Dixon Advisory Group Limited
Suite 1502
100 Pacific Highway
Sydney NSW 2060

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 Dixon Advisory Group Limited (**Dixon Advisory**) has contravened an infringement notice provision as follows:
 - (a) On or around 20 October 2014, Dixon Advisory contravened section 12DB(1)(g) and 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 with respect to the price of services or the sponsorship, approval, performance characteristics, uses or benefits of a self-managed superannuation fund (SMSF).
 - (b) In particular, Dixon Advisory made representations on the Dixon Advisory website, www.dixon.com.au (**website**), about the advantages of SMSFs, including that SMSFs offer the following advantages:
 - i. "Generally lower fees than industry and retail funds."
 - ii. "On average, better performance than industry and retail funds."
 - (c) The website also states that:

"A Commonwealth Government report titled A Statistical Summary of Self-Managed Superannuation Funds (Dec 2009), based on ATO and APRA data, found SMSF members generally pay lower fees and that, on average, SMSF investments performed better than all other super funds over 2006, 2007 and 2008."
 - (d) The representations are false or misleading because:
 - i. The report referred to on the website specifically warns against drawing conclusions from a direct comparison of the costs or performance of SMSFs and other superannuation funds due to a range of issues that mean that the data is not directly comparable;
 - ii. The Australian Taxation Office has also cautioned against making direct comparisons between its data on SMSF costs and performance with the costs and performance of APRA-regulated superannuation funds as the data collected is not the same;

- iii. A Rice Warner Actuaries' 2013 report titled, "Costs of Operating SMSFs", concludes that there are balances at which an SMSF is not competitive compared to APRA-regulated funds;
- iv. With the introduction of MySuper superannuation products on 1 January 2014, most Australians have access to a low cost superannuation fund from both industry and retail providers of superannuation.

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:
Michèle Whittle
Australian Securities and Investments Commission
GPO Box 9827
Melbourne Vic 3001

or by facsimile: (03) 9280 3444

or by email: ACLInfringementNotices@asic.gov.au



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