



ASIC

Australian Securities & Investments Commission

Our Reference: 17-20171

26 May 2017

Synergy Financial Markets Pty Ltd
ACN 150 565 781
Level 27, 25 Bligh Street
Sydney NSW 2000

Level 7, 120 Collins Street,
Melbourne VIC 3000
GPO Box 9827, Melbourne VIC 3001
DX 423 Melbourne

Telephone: +61 3 9280 3200
Facsimile: +61 3 9280 3444
www.asic.gov.au

Dear Sir/Madam

Infringement Notice

I enclose by way of service on Synergy Financial Markets Pty Ltd an Infringement Notice issued in accordance with section 12GXA of the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

The Infringement Notice (the notice) has been issued to you:

- because ASIC has reasonable grounds to believe that you have contravened an infringement notice provision of the ASIC Act; and
- as an alternative to commencing a proceedings (whether criminal or civil) against you for the alleged contravention.

Details of the alleged contravention and the amount payable under the notice are contained in the notice.

Enclosures:

- the notice
- Invoice
- ASIC Information sheet – ASIC Act Infringement Notices: Your Rights, which sets out your rights in respect of the notice.

If you have any questions in relation to the notice please contact Philip Peck on 02 9911 22847 or philip.peck@asic.gov.au.

Yours sincerely

John Price

As a delegate of the Australian Securities and Investments Commission



ASIC

Australian Securities & Investments Commission

INFRINGEMENT NOTICE

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

Day of issue: 26 May 2017

Unique identification code: R20170000308069

TO: Synergy Financial Markets Pty Ltd
ACN 150 565 781
Level 27, 25 Bligh Street
Sydney NSW 2000

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 Synergy Financial Markets Pty Ltd (**Synergy**) has contravened an infringement notice provision as follows:

Between at least 26 May 2016 and 28 February 2017, Synergy contravened s12DB(1)(g) of the ASIC Act, in trade and 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, by making false or misleading representations (in the same form or substantially the same form as **Annexure A**) (the **Website Representations**) on www.synergyfxfundsmanagement.com with respect to the price of the financial services offered by Synergy.

Particulars

- (a) Synergy offers two managed discretionary accounts, 'Arbidyne' and 'Phoenix' (**MDAs**). Synergy does not offer any other managed discretionary accounts;
- (b) Synergy deals in the MDAs (the **Service**);
- (c) Between at least 26 May 2016 and 28 February 2017, Synergy made the **Website Representations** on the website www.synergyfxfundsmanagement.com in connection with the supply or possible supply of the **Service**;
- (d) The **Website Representations** each contain a representation that an investor only pays a fee for the **Service** when an investor's investment makes a profit;
- (e) Synergy charges the following fees even when an investor's investment in the MDAs does not make a profit:
 - (i) brokerage fees and commissions for the **Service**; and
 - (ii) in relation to Arbidyne, an annual management fee of 2% of an investor's balance.

Penalty under this notice

3. The penalty payable under this notice in relation to the alleged contravention is \$10,800.

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 \$1.8 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.
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:

Philip Peck

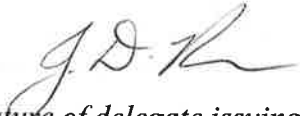
Australian Securities and Investments Commission

GPO Box 9827

SYDNEY NSW 2001

Or by facsimile: (02) 9911 2402

**or by email: ACLInfringementNotices@asic.gov.au and also to
philip.peck@asic.gov.au**



Signature of delegate issuing the notice

John Price

as a delegate of the Australian Securities and Investments Commission

Annexure A

The following are the Website Representations:

1. 'Free to join and you only pay us when your account profits';
2. 'You only pay us if your account grows, because the only fees you ever pay are entirely performance based. FREE TO JOIN and you only pay a percentage of the profit made on your account.'
3. 'You pay us a performance fee out of the profits we make you';
4. 'You only pay us out of profits';
5. 'What are the startup [sic] and ongoing costs?'

We don't charge you anything if we don't make a profit, but if we do, at the end of the month we deduct a percentage of the profits. This is the only fee that we take.

If we don't make profit, you pay nothing, and we have to make up the loss the following month before you pay anything.'

6. 'Performance Fees Charged Only Out of Profits Gained'.

