

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 17/03/2020 2:24:39 PM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	VID183/2020
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v COLONIAL FIRST STATE INVESTMENTS LIMITED
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 17/03/2020 2:30:12 PM AEDT

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



**Originating process**

No.    VID                    of 2020

Federal Court of Australia  
District Registry: Victoria  
Division: General

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**COLONIAL FIRST STATE INVESTMENTS LIMITED ACN 002 348 352 in its own capacity and as trustee for the Colonial First State FirstChoice Superannuation Trust**  
Defendant

To the Defendant

The Plaintiff applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**TIME AND DATE FOR HEARING:**

**PLACE:** Federal Court of Australia  
Owen Dixon Commonwealth Law Courts Building  
305 William Street  
Melbourne VIC 3000

Date:

.....  
Signed by an officer acting with the  
authority of the District Registrar

Filed on behalf of (name & role of party)	The Plaintiff	
Prepared by (name of person/lawyer)	Tom Jarvis, lawyer for the plaintiff	
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76857638.	[Version 2 form approved 09/05/2013]	



## A. DETAILS OF APPLICATION

This application is made under sections 19 and 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), sections 12GBA(1), 12GJ(1) and 12GLB(1)(a) of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) and section 1101B of the *Corporation Act 2001* (Cth) (**Corporations Act**).

The plaintiff seeks declarations of contraventions of the *ASIC Act* and the *Corporations Act*, pecuniary penalty orders, adverse publicity orders and ancillary orders including costs.

On the grounds stated in the accompanying concise statement, the plaintiff seeks:

1. A declaration pursuant to s 21 of the *FCA Act* and s 1101B of the *Corporations Act* that, on 22 April 2014, in a letter sent to 12,911 members of its First Choice Fund, CFSIL:
  - 1.1. made false or misleading representations in connection with the supply of financial services concerning the need for any services in contravention of s 12DB(1)(h) of the *ASIC Act*;
  - 1.2. made false or misleading representations in connection with the supply of financial services concerning the existence or effect of a condition, right or remedy in contravention of s 12DB(1)(i) of the *ASIC Act*;
  - 1.3. engaged in conduct in relation to financial services that was misleading or deceptive or likely to mislead or deceive in contravention of s 12DA(1) of the *ASIC Act*;
  - 1.4. engaged in conduct in relation to financial services that was misleading or deceptive or likely to mislead or deceive in contravention of s 1041H of the *Corporations Act*;
  - 1.5. breached its general obligation to comply with financial services laws in contravention of s 912A(1)(c) of the *Corporations Act*.
2. A declaration pursuant to s 21 of the *FCA Act* and s 1101B of the *Corporations Act* that, in the period from 18 March 2014 until on 21 April 2016, on at least 46 occasions, during the course of 46 calls with members of its First Choice Fund, CFSIL:
  - 2.1. made false or misleading representations in connection with the supply of financial services concerning the need for any services in contravention of s 12DB(1)(h) of the *ASIC Act*;
  - 2.2. made false or misleading representations in connection with the supply of financial services concerning the existence or effect of a condition, right or remedy in contravention of s 12DB(1)(i) of the *ASIC Act*;
  - 2.3. engaged in conduct in relation to financial services that was misleading or deceptive or likely to mislead or deceive in contravention of s 12DA(1) of the *ASIC Act*;





- 2.4. engaged in conduct that was liable to mislead the public as to the nature, the characteristics and/or the suitability for their purposes of financial services, in contravention of s 12DF of the *ASIC Act*;
  - 2.5. engaged in conduct in relation to financial services that was misleading or deceptive or likely to mislead or deceive in contravention of s 1041H of the *Corporations Act*;
  - 2.6. failed to warn the member that the advice being provided during the call had been prepared without taking account of the client's objectives, financial situation or needs, and because of that, the client should, before acting on the advice, consider the appropriateness of the advice, in contravention of s 949A of the *Corporations Act*;
  - 2.7. failed to do all things necessary to ensure its services are provided efficiently, honestly and fairly, in contravention of s 912A(1)(a) of the *Corporations Act*;
  - 2.8. breached its general obligation to comply with financial services laws in contravention of s 912A(1)(c) of the *Corporations Act*.
3. An order pursuant to s 12GBA(1) of the *ASIC Act* that, within 30 days of the order, CFSIL pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of CFSIL's conduct declared to be contraventions of s 12DB(1)(h), 12DB(1)(i) and 12DF of the *ASIC Act*.
  4. An order pursuant to s 12GLB(1)(a) of the *ASIC Act* that, within 30 days of the order, CFSIL take all reasonable steps to cause to be published, at its own expense, a notice stating that it has been ordered to pay a pecuniary penalty because it has made false or misleading representations and engaged in conduct that was liable to mislead the public as to the nature, characteristics and/or the suitability for their purposes of financial services.
  5. An order that the defendant pay the plaintiff's costs of and incidental to the proceeding.
  6. Such further or other orders as the Court considers appropriate.

**Plaintiff's address**

The plaintiff's address for service is:


Place: Level 34, 55 Collins Street Melbourne, VIC 3000

Email: tom.jarvis@jws.com.au

**Service on the Defendant**

It is intended to serve this application on the defendant.

Dated: 17 March 2020

  
Signed by Tom Jarvis, lawyer for the Plaintiff