

NOTICE OF FILING

Details of Filing

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MERCER SUPERANNUATION (AUSTRALIA) LIMITED (ACN 004 717
533)
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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.

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Form 17
Rule 8.05(1)(a)

Statement of claim

No. VID1039 of 2025

Federal Court of Australia
District Registry: Victoria
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

MERCER SUPERANNUATION (AUSTRALIA) LIMITED (ACN 004 717 533)

Defendant

A. Parties and introduction

1 The Plaintiff (**ASIC**) is and was at all material times:

- (a) a body corporate established by s 8(1)(a) of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**);
- (b) able to sue in its corporate name by operation of s 8(1)(d) of the *ASIC Act*; and
- (c) empowered to exercise the functions and powers conferred upon it under the *ASIC Act* and the *Corporations Act 2001* (Cth) (**Corporations Act**), by operation of s 11 of the *ASIC Act*.

2 The Defendant (**MSAL**) is and was at all material times:

- (a) a corporation incorporated under the *Corporations Act*, and able to be sued;
- (b) the trustee of a superannuation fund known as the Mercer Super Trust (**MST**), in respect of which it holds a Registrable Superannuation Entity licence numbered L0000819;

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- (c) the holder of an Australian Financial Services Licence (**AFSL**) numbered 235906;
- (d) a financial services licensee for the purposes of the *Corporations Act*;
- (e) authorised by its AFSL to, among other things:
 - (i) provide financial product advice in respect of superannuation (condition 1(a)(ii));
 - (ii) deal in financial products by issuing, applying for, acquiring, varying or disposing of a financial product in respect of superannuation (condition 1(b)(i)(A)); and
 - (iii) provide a superannuation trustee service to retail and wholesale clients (condition 1(c)),
- (f) a subsidiary of Mercer (Australia) Pty Ltd (**MAPL**).

3 At all times since 1 October 2021, MSAL has been obliged to comply with the reportable situations regime contained in Subdivision B of Division 3 of Part 7.6 (Ch 7) of the *Corporations Act* (**Reportable Situations Regime**).

4 During the period 1 October 2021 to 30 September 2024 (**Relevant Period**), as part of MSAL's obligation to comply with the Reportable Situations Regime, MSAL was required to have in place an adequate system to facilitate compliance with the Reportable Situations Regime, including:

- (a) the identification and tracking of investigations into whether there was a reportable situation of the kind mentioned in ss 912D(1)(a) or (b) of the *Corporations Act* (**Investigation(s)**);
- (b) the reporting of:
 - (i) Investigations that continued for more than 30 days in accordance with s 912DAA(1) of the *Corporations Act*;
 - (ii) Investigations described in sub-paragraph (b)(i) above disclosing that there was no reportable situation of the kind mentioned in ss 912D(1)(a) or (b) of the *Corporations Act* in accordance with s 912DAA(1) of the *Corporations Act*,

(individually and collectively, **Reportable Investigation(s)**).

B. MSAL's shared outsourcing model

5 By an agreement dated 9 March 2012, and in force during the Relevant Period, MAPL provided "Services" and "Resources" to MSAL.

Particulars

Master Services and Resources Agreement dated 9 March 2012 between, among others, MAPL and MSAL (**Master Services and Resources Agreement**).

- 6 By the Master Services and Resources Agreement:
- (a) MAPL would provide or procure the provision of "Services" to MSAL in accordance with the terms of the agreement and ensure that MSAL complied with the "Relevant Law" and "Regulator Requirements" (cl 2.1(a));
 - (b) "Services" means the services identified in Schedule 1, including "compliance and risk management services, including developing, implementing and maintaining incident reporting procedures for MSAL" (cl 1.1; Schedule 1);
 - (c) "Resources" means the resources identified in Schedule 2, including "incident reporting, escalation and management systems" and "human resources including staff with required skills, knowledge and expertise" (cl 1.1; Schedule 2);
 - (d) "Relevant Law" includes the *Corporations Act* (cl 1.1); and
 - (e) "Regulator Requirements" means any requirements imposed by a Regulator (including ASIC) with which MSAL must comply (cl 1.1).
- 7 Notwithstanding the matters alleged in paragraphs 5 and 6 above, during the Relevant Period, MSAL remained responsible for complying with the obligations in Division 3 of Part 7.6 of the *Corporations Act*, including, relevantly:
- (a) the general obligations under s 912A(1) of the *Corporations Act*; and
 - (b) the obligation to report Reportable Investigations to ASIC in accordance with s 912DAA of the *Corporations Act*.

C. The Mercer Incident System

8 During the Relevant Period, and specifically until 19 August 2024, MSAL defined an “incident” as:

A circumstance or event caused by inadequate or failed internal processes, people, systems or external events. These circumstances or events could be caused by Mercer or by third parties acting on Mercer’s behalf. This also includes a near miss, where the event did not lead to any loss or harm or led worked in Mercer’s favour.

Particulars

- (i) Incident Management Policy v 7 [MSN.1002.0001.0038 **at .0047**].
- (ii) Incident Management Policy v 7.1 [MSN.1002.0001.0054 **at .0063**].
- (iii) Incident Management Policy v 8 (omitting the word “led” in the final sentence) [MSN.0010.0001.0006 **at .0015**].

9 On 19 August 2024, version 9 of the Incident Management Policy was introduced. Version 9 expanded the definition of an “incident” as follows:

Incident or Event — is a failure of internal controls, people, processes, systems or external events that has led to or has the potential to lead to, an unintended negative impact; the nature of which has or may result in a financial or non-financial (reputational, internal policy or compliance) consequence, including a breach or potential breach of law or regulation and near misses that may be indicative of control gaps.

These events may be caused by Mercer or by third parties acting on Mercer’s behalf and may result in a regulatory, contractual or internal policy impact.

Particulars

Incident Management Policy v 9 [MSA.0039.0001.0005 **at .0008**].

10 In the Relevant Period, MSAL’s system, which was administered by MAPL, in relation to: (a) incidents; and (b) the identification and tracking of Investigations, and the reporting of Reportable Investigations comprised the following elements:

- (a) the policy and procedure documents identified in Annexure A (**Documented System**);

- (b) a Governance, Risk and Compliance database known as "Scout" (**GRC Database**); and
- (c) manual processes, as described at paragraphs 30 - 36 below (**the Manual Process**).

Particulars

On 17 September 2024, Scout was replaced by a new Governance, Risk, and Compliance database known as "Frank". New incidents identified after 17 September 2024 were lodged in the new Frank database. Incidents lodged in Scout continued to be managed in Scout until closure or independent migration to Frank.

- 11 Each of the GRC Database and the Manual Process were managed and implemented by a compliance and risk function (staff) which comprised teams described as "Line 1" and "Line 2".
- 12 In the context of incidents:
 - (a) the Line 1 team was generally responsible for:
 - (i) initially reviewing an incident within three days of it being lodged in the GRC Database, and validating the incident;
 - (ii) assigning an incident a preliminary rating; and
 - (iii) ensuring that the root cause of an incident was identified and ensuring any gaps in controls, processes and/or procedures were addressed and/or rectified.
 - (b) the Line 2 team was generally responsible for:
 - (i) monitoring, oversight and reporting of incidents in the GRC Database;
 - (ii) conducting compliance assessments of incidents;
 - (iii) escalating potentially reportable incidents to the Significant Incident Review Panel (**SIRP**) for assessment; and
 - (iv) preparing reportable situation reports for relevant regulators.

- 13 In the Relevant Period, MSAL had in place the following system (summarised in paragraphs 14 - 36 below) in respect of: (a) incidents; and (b) the identification and tracking of Investigations, and the reporting of Reportable Investigations.

The Documented System

- 14 During the Relevant Period, the Documented System comprised a series of policy, procedure, and guideline documents identified in Annexure A.
- 15 The policy, procedure, and guideline documents identified in Annexure A outlined the processes for reviewing, assessing, monitoring, and remediating incidents.
- 16 During the Relevant Period the Australia Breach Reporting: Initial Triaging Checklist (**Initial Triaging Checklist**) was the only document within the Documented System that:
- (a) expressly referred to the need to report a Reportable Investigation (at questions 11 and 12); and
 - (b) contained an express definition of an Investigation (in the definitions table).

Particulars

- (i) Australia Breach Reporting Initial Triaging Checklist v 1.0 [MSN.1002.0001.0298 at **.0302** and **.0347**].
 - (ii) Australia Breach Reporting Initial Triaging Checklist v 2.0 [MSN.1002.0001.0361 at **.0365** and **.0402**].
 - (iii) Australia Breach Reporting Initial Triaging Checklist v 3.0 [MSN.0010.0001.0030 at **.0034** and **.0070**].
 - (iv) Australia Breach Reporting Initial Triaging Checklist v 4.0 [MSN.1002.0001.0414 at **.0421** and **.0458**].
- 17 During the Relevant Period, the Initial Triaging Checklist defined an Investigation in the following way:

The term 'investigation' is not defined in the Corporations Act and has its ordinary meaning. The following examples are unlikely to amount to an investigation (see RG 78.57):

- *entering a suspected compliance issue into SCOUT;*
- *receipt of a complaint, whistleblower disclosure or regulatory request;*

- *preliminary steps and initial fact-finding inquiries into the nature of the incident, which are completed over a short timeframe and conducted as an initial response to detective controls;*
- *business as usual inquiries (such as routine audits, quality assurance monitoring or other internal compliance review processes) unless the inquiries are triggered by an incident, **or involve assessing a possible breach of a “core obligation”**.*

See RG 78.52, RG 78.53(b) and RG 78.85 for further guidance, including Example 10.

(emphasis in original.)

18 The Initial Triaging Checklist was:

- a document that was available to be used by members of the Line 2 team to facilitate the completion of a compliance assessment; and
- not a document for which use was mandatory.

The GRC Database

19 Upon an incident being identified, the details of the incident were required to be entered into the GRC Database as soon as practicable and within two business days of identification. The person within the business who identified the incident was responsible for recording the details of it in the GRC Database.

Particulars

- Incident Management Policy v 7, 3.1 [MSN.1002.0001.0038 **at .0043**].
- Incident Management Policy v 7.1, 3.1 [MSN.1002.0001.0054 **at .0059**].
- Incident Management Policy v 8, 3.1 [MSN.0010.0001.0705 **at .0710**].
- Incident Management Policy v 9, 3.1 [MSA.0039.0001.0005 **at .0013**].

20 Within three business days of being entered into the GRC Database, the incident was required to be assessed and was subject to an “initial assessment”. The initial assessment stage involved:

- verifying that the incident had in fact occurred;
- allocating a potential impact or impacts to the incident;
- ensuring that the incident was appropriately rated with regard to its potential impact(s); and

- (d) validating the incident by considering whether sufficient information had been reported to assess the incident (generally by reference to a Line 1 assessment compliance checklist), and requesting additional information about the incident for the purposes of incident management (if required).

Particulars

- (i) Incident Management Policy v 7, 3.2 [MSN.1002.0001.0038 **at .0043**].
- (ii) Incident Management Policy v 7.1, 3.2 [MSN.1002.0001.0054 **at .0059**].
- (iii) Incident Management Policy v 8, 3.2 [MSN.0010.0001.0705 **at .0710**].
- (iv) Incident Management Policy v 9, 3.2 [MSA.0039.0001.0005 **at .0013**].
- (v) Management of Potential Reportable Situations v 1.0
[MSN.1002.0001.0193 **at .0195**].
- (vi) Management of Potential Reportable Situations v 2.0
[MSN.0010.0001.0023 **at .0025**].

- 21 If there was insufficient information available to conduct an initial assessment of the incident, the incident was referred to “relevant stakeholders” to seek further information.

Particulars

- (i) Incident Management Policy v 7, 3.2 [MSN.1002.0001.0038 **at .0043**].
- (ii) Incident Management Policy v 7.1, 3.2 [MSN.1002.0001.0054 **at .0059**].
- (iii) Incident Management Policy v 8, 3.2 [MSN.0010.0001.0705 **at .0710**].

The term “relevant stakeholders” is not defined in the Incident Management Policy.

- 22 The potential impact or impacts of an incident (as referred to in paragraph 20(b) above) could be selected from three options: (a) financial; (b) privacy; or (c) compliance. Until at least August 2023, selecting a potential impact was an optional field in the GRC Database and the person conducting an initial assessment could select none, one, two or all three options.

Particulars

- (i) Scout Incident Management Guidelines v 1.0 [MSN.1002.0001.0070 **at .0084 - .0085**].

- (ii) Scout Incident Management Guidelines v 2.0 [MSN.1002.0001.0111 at **.0125 - .0126**].
- (iii) Scout Incident Management Guidelines v 2.1 [MSN.1002.0001.0152 at **.0165 - .0166**].

23 In the Relevant Period:

- (a) the term “compliance incident” was defined as: “*any incident that has led to an actual or potential breach of legislation, regulation, industry code standard or breach of a Mercer Policy*”; and
- (b) incidents marked as a “compliance incident” required a compliance assessment.

Particulars

- (i) Incident Management Policy v 7, 3.5.1 and Appendix 1 [MSN.1002.0001.0038 at **.0045 and .0047**].
- (ii) Incident Management Policy v 7.1, 3.5.1 and Appendix 1 [MSN.1002.0001.0054 at **.0061 and .0063**].
- (iii) Incident Management Policy v 8, 3.5.1 and Appendix 1 [MSN.0010.0001.0705 at **.0712 and .0714**].

24 As part of the initial assessment stage, incidents were triaged for a subsequent compliance assessment:

- (a) Prior to August 2023, an incident was triggered for a compliance assessment in one of two ways:
 - (i) if the incident was rated Moderate, Major or Extreme; or
 - (ii) if the “privacy” or “compliance” box was selected as a potential impact.
- (b) From around August 2023, the GRC Database was updated such that the lodgement of incidents required a compliance assessment by Line 2, and from around that time members of the Line 1 team were directed to tick the “compliance” box when completing the potential impact field for an incident in the GRC Database such that all incidents were allocated a “compliance impact” at the initial assessment stage.

Particulars

From in or around September 2023, the Mercer Super Line 1 Risk and Compliance: Incident Entry, Validation Process & Incident Support document provided that at the assessment stage *“All Incidents entered under Mercer Super, must undergo a Compliance Assessment. This is regardless of what the Incident Identifier indicates in the Incident Details field. Please ensure you tick the ‘Compliance Impact’ field for all Incidents”* [MSN.1002.0001.0481 **at .0483**].

- 25 As a result, from August 2023, all incidents lodged in the GRC Database underwent a compliance assessment.
- 26 Once an incident was assessed as having a potential compliance impact (and/or rated moderate or above in the period 1 October 2021 to August 2023):
- (a) it was required to undergo a compliance assessment;
 - (b) the Line 2 compliance team received an automated notification by email that the incident required a compliance assessment; and
 - (c) if necessary, further information, such as: the number and identity of members impacted; the nature of the impact (both financial and non-financial); the nature of the incident (for example, whether members were misled or whether member contributions were not allocated correctly); whether the incident was linked to any historical incidents; whether the incident evidenced a systemic issue; the root cause of the incident; and potential remediation, was gathered and assessed for the purposes of conducting the compliance assessment.
- 27 The compliance assessment was completed by members of the Line 2 team who determined, among other things, whether the incident gave rise to a potentially reportable situation.
- 28 By reason of the matters alleged in paragraphs 20 - 27 above, an Investigation commenced at least from the time that an incident was identified as having a potential compliance impact in the GRC Database.
- 29 During the compliance assessment process, and/or as a result of the compliance assessment process, incidents that were identified as being potentially reportable were typically escalated to the SIRP to determine if the incident should be reported to ASIC under the Reportable Situations Regime.

Manual Process employed in the period 1 October 2021 to May 2023

- 30 In addition to the steps outlined in paragraphs 19 - 29 above, in the period 1 October 2021 to May 2023, MSAL's system also involved the following Manual Process:
- (a) A "weekly triage meeting" which was held and typically attended by members of the Line 2 team. The purpose of the meeting was to review and discuss incidents entered in the GRC Database which had been allocated a potential compliance impact (i.e., where the compliance box had been selected or the incident had been rated Moderate or above), and where necessary, escalate incidents within the compliance team for a compliance assessment.
 - (b) Attendees at the weekly triage meeting relied on and discussed a spreadsheet known as the "**Assessment Triage spreadsheet**" which relevantly recorded incidents that had been assessed as having a compliance impact.

Particulars

An example of the Assessment Triage spreadsheet is at [MSA.0039.0001.0004].

- (c) If members of the Line 2 team considered that there was insufficient information in relation to an incident in the Assessment Triage spreadsheet to assess whether there had been, or was likely to be, a significant breach of a core obligation (for the purposes of ss 912D(1)(a) or (b) of the *Corporations Act*), they would ask for further information to be gathered by the attendees of the weekly triage meeting and the incident was added to an agenda to be actioned in a future meeting.
- (d) Once fact finding in respect of an incident on the Assessment Triage spreadsheet was determined to be complete and members of the Line 2 team determined that there was sufficient information in respect of an incident to assess whether there had been, or was likely to be, a significant breach of a core obligation for the purposes of ss 912D(1)(a) or (b) of the *Corporations Act*, the incident was added to another Excel spreadsheet, known as the "**RG78 Tracker**".

Particulars

An example of the RG78 Tracker is at [MSA.0039.0001.0003].

- 31 As referred to in paragraphs 16 and 18 above, members of the Line 2 team could use the Initial Triage Checklist to inform their assessment of whether an incident gave rise to a reportable situation to be reported to ASIC, but it was not mandatory.

32 The RG78 Tracker:

- (a) was used to manually record the commencement and duration of Investigations; and
- (b) recorded the start date of an Investigation as the “Date Reported to Line 2 (Fact finding complete)”.

Manual process employed in the period May 2023 to August 2024

33 In addition to the steps outlined in paragraphs 19 - 29 above, in the period May 2023 to August 2024, MSAL’s system also involved the following Manual Process:

- (a) The weekly triage meetings referred to in paragraph 30(a) above continued between May 2023 and 27 June 2023, and otherwise ceased from that time.
- (b) Members of the Line 2 team were responsible for manually monitoring the commencement, duration and potential reportability of Investigations.
- (c) Members of the Line 2 team could use the Initial Triage Checklist to inform their assessment of whether an incident gave rise to a reportable situation to be reported to ASIC, but it was not mandatory.

34 No documents (including the Assessment Triage spreadsheet and/or the RG78 Tracker) were otherwise relied on in the period May 2023 to August 2024 to track the commencement, duration and potential reportability of Investigations.

Manual process employed in the period August 2024 to September 2024

35 In addition to the steps outlined in paragraphs 19 - 29 above, in the period August 2024 to 30 September 2024, MSAL’s system also involved the following Manual Process:

- (a) Members of the Line 2 team held a weekly meeting to discuss incidents.
- (b) From about September 2024, a new spreadsheet was developed and used to manually track the commencement, duration, and reportability of Investigations **(New RG78 Tracker)**.
- (c) Members of the Line 2 team could use the Initial Triage Checklist to inform their assessment of whether an incident gave rise to a reportable situation to be reported to ASIC, but it was not mandatory.

Particulars

An example of the New RG78 Tracker is at [MSA.0010.0001.0012].

- 36 The New RG78 Tracker recorded the start date of an Investigation as the “Compliance Assessment Start Date”.

Manual process not recorded in the Documented System or integrated into the GRC Database

- 37 The Manual Processes described in paragraphs 30 - 36 above were not recorded in the Documented System nor otherwise integrated into the GRC Database.

D. Deficiencies of the Mercer Incident System

- 38 During the Relevant Period, the Mercer Incident System was deficient for the reasons identified in paragraphs 39 - 51 below (individually and collectively, the **Deficiencies**).

- 39 There was no end-to-end policy or procedure document that would enable relevant members of the compliance team to adequately and consistently:

- (a) identify the commencement of an Investigation;
- (b) track the duration of an Investigation; and/or
- (c) identify whether and when to report an Investigation to ASIC in accordance with the Reportable Situations Regime.

- 40 There was no single set of policy and/or procedure documentation that covered all aspects of the Mercer Incident System that could be relied on to:

- (a) explain all the necessary aspects of identifying, tracking, and reporting Investigations; and
- (b) assign accountability.

- 41 There was a lack of connectivity between the separate elements of the Mercer Incident System (being the Documented System, the GRC Database, and the Manual Process) and not all relevant information was recorded in the one system or location.

- 42 There was no, or no adequate, positive definition or description of an Investigation or Reportable Investigation in documentation that comprised the Mercer Incident System that would allow compliance staff to reasonably identify:

- (a) what constituted an Investigation;

- (b) whether an Investigation had commenced;
- (c) how the commencement date of an Investigation was to be determined; and/or
- (d) that a Reportable Investigation is in and of itself a reportable situation.

43 To the extent that any date for the commencement of an Investigation was identified or considered in any document or tracker, the dates:

- (a) were inconsistently calculated; and
- (b) did not accurately reflect when an Investigation commenced or was reportable for the purposes of the *Corporations Act*.

Particulars

- (i) The RG78 Tracker identified the start date of an Investigation as the “Date Reported to Line 2 (Fact finding complete)” whereas the New RG78 Tracker identified the start date of an Investigation as the “Compliance Assessment Start Date”.
- (ii) By way of example, the RG78 Tracker identified the Investigation start date for INC-0011906 as 21 March 2023, whereas the New RG78 Tracker identified Investigation start date for INC-0011906 as 14 April 2023.
- (iii) ASIC otherwise refers to and repeats the matters alleged in paragraph 28 above.

44 To the extent that the Initial Triaging Checklist contained a definition of an Investigation:

- (a) the checklist was not mandatory;
- (b) the checklist was only for use by members of the Line 2 team; and
- (c) the definition of Investigation was expressed in the negative (i.e, what an investigation is not, rather than what it is).

45 There was no document within the Documented System that prompted, or adequately prompted, members of the Line 2 team completing a compliance assessment to consider:

- (a) whether an Investigation had commenced, or the duration of such an Investigation; or
- (b) whether a Reportable Investigation needed to be reported to ASIC.

- 46 There was no, or no adequate, function within the GRC Database to identify or record the commencement date of an Investigation, track the duration of an Investigation, and/or automatically trigger an alert to report, or consider reporting, a Reportable Investigation to ASIC.
- 47 There was no documented description of those responsible for identifying, tracking and reporting Reportable Investigations.
- 48 By reason of the matters alleged in paragraphs 42 to 47 above, the fact that an Investigation had continued for more than 30 days was not necessarily considered or captured as part of the compliance assessment of incidents and such Investigations were, therefore, not necessarily escalated as being potentially reportable or in fact reported.
- 49 Further, there was no, or no adequate, process in the Mercer Incident System to record and report Investigations which continued for more than 30 days and disclosed that there was no significant breach of a core obligation, or inability to comply with a core obligation where the breach, if it occurred, would be significant.
- 50 The RG78 Tracker and the New RG78 Tracker:
- (a) were not subject to any documented guidelines to assist those who used and/or relied on the spreadsheets to determine the start date of an Investigation correctly or consistently;
 - (b) did not make clear the source of the data/information to be considered;
 - (c) did not include any automated trigger to notify the compliance team that an Investigation was approaching, or had exceeded, 30 days' duration;
 - (d) were largely manual documents subject to human error (being both input error and interpretation error);
 - (e) were only used by and available to select members of the Line 2 team;
 - (f) were not subject to any, or any adequate, supervision or oversight; and
 - (g) did not make clear those responsible for maintaining, verifying and validating data and decisions made by using the Manual Process.
- 51 During the period May 2023 to August 2024, there was no designated process at all to identify the commencement of an Investigation, track the duration of an Investigation, and/or report a Reportable Investigation.

- 52 Having regard to the Deficiencies, a licensee in MSAL's position during the Relevant Period ought to have had in place an effective, consistent and documented process, by which:
- (a) There was a clear end-to-end process which set out: the approach to identify, conduct and track Investigations, and report Reportable Investigations; and the allocation of responsibility for each step in the process, including overall oversight.
 - (b) Each element of the process was relevantly connected.
 - (c) There was a documented definition of what constituted an Investigation (including how to determine an Investigation start date, and how and when an Investigation needed to be considered for reportability), which was correct, accessible and capable of being understood by Line 1 and Line 2 risk and compliance staff responsible for overseeing incidents and Investigations, and Line 2 staff responsible for conducting compliance assessments and reporting.
 - (d) The duration of Investigations could be tracked in an automated way, with alerts sent to relevant compliance staff to monitor and report Reportable Investigations within time.
 - (e) Necessary controls, such as the segregation of duties, were incorporated in the system to ensure that actions, such as reporting Reportable Investigations, occurred within time.
 - (f) The entire system was monitored via the production of defined reports which were reviewed by management, to ensure that the system was operating as intended and was updated to reflect any changes in legislation.

E. MSAL's knowledge of and failure to remedy the Deficiencies

- 53 MSAL was aware or ought to have been aware of the Deficiencies by reason of the matters alleged in paragraphs 54 to 61 below.
- 54 MSAL had obligations to be informed of and ensure compliance with the Reportable Situations Regime.

Particulars

ASIC refers to and repeats the matters alleged in paragraphs 3, 4, and 7 above.

- 55 MSAL knew or ought to have known what systems were in place in relation to its compliance with the Reportable Situations Regime.

Particulars

ASIC refers to and repeats the matters alleged in paragraphs 3, 4, and 7 above.

- 56 On 23 March 2022, Deloitte, independent auditor for MAPL and its subsidiaries including MSAL, relevantly advised MAPL that:
- (a) the Incident Management Policy (then dated July 2021) needed to be updated to, among other things, reflect the definition of reportable situations and change the timeframe of reporting to ASIC to 30 days from the day you first know that, or are reckless with respect to whether, there are reasonable grounds to believe that a reportable situation has arisen;
 - (b) there was a risk that investigations on foot for more than 30 days were not being reported to ASIC as a result of: (i) Line 2 manually monitoring incidents/breaches; and (ii) Management advice that the “Date of Initial Assessment” recorded in the GRC Database did not reflect the start date of an Investigation; and
 - (c) Deloitte recommended that management use functionality in the GRC Database to properly record and monitor compliance with the regulatory requirement to report to ASIC investigations that continue for more than 30 days.

Particulars

Deloitte report titled “Mercer (Australia) Pty Ltd Final report to the Board of Directors on the 2021 audit” [MSA.0024.0001.4484 at **.4504, 4506** and **.4507**]. The report was presented to the MAPL Board on 23 March 2022.

- 57 On 8 March 2023, Deloitte relevantly advised the MSAL Audit and Risk Committee that:
- (a) information contained in the GRC Database for incidents did not appear to be complete, and in particular the field “*Is there any regulatory impact?*” was left blank for a vast majority of incidents;
 - (b) it appeared a number of incidents recorded in the GRC Database had been under investigation for more than 30 days, and the new rules (being the Reportable Situations Regime) required reporting to ASIC when certain investigations continue for more than 30 days;

- (c) the Risk and Compliance team were aware of the challenges identified by Deloitte and aimed to address them soon; and
- (d) MSAL had only reported two matters to ASIC since October 2021, however Deloitte had otherwise seen a significant increase in breach reporting by other retail businesses similar to MSAL.

Particulars

Deloitte report titled "Mercer Superannuation (Australia) Limited Final report to the Audit and Risk Committee on the 2022 audit" [DTT.0001.0001.0008 at **0010-0011**]. The report was presented to the MSAL Audit and Risk Committee on 8 March 2023.

- 58 Further, in respect of the Deloitte audit report presented to the MSAL Audit & Risk Committee on 8 March 2023, the Committee noted and discussed the level of ASIC breach reporting when compared to similar sized funds and discussed the importance of the breach reporting process to serve members' best interests and ensure compliance with regulatory obligations.

Particulars

MSAL Minutes of Audit & Risk Committee Meeting held on 8 March 2023 [MSA.0009.0001.2345 at **.2348 - .2349**].

- 59 On or around 28 April 2023, Deloitte relevantly advised MAPL that:
- (a) MSAL had only reported two matters to ASIC since October 2021 which appeared to be at the lower end when compared with other responsible entities in the industry;
 - (b) information contained in the GRC Database for incidents did not appear to be complete, and in particular the field "*Is there any regulatory impact?*" was left blank for a vast majority of incidents;
 - (c) there were broader data quality issues associated with the information contained in the GRC Database which had been experienced by the Risk and Compliance team (ie, the Line 2 team) when assessing incidents;
 - (d) it appeared that a number of incidents recorded in the GRC Database had been under investigation for more than 30 days, and that the new rules (being the

Reportable Situations Regime) required reporting to ASIC when certain investigations continue for more than 30 days; and

- (e) the Risk and Compliance team were aware of the challenges identified by Deloitte and aimed to address them soon.

Particulars

Deloitte report titled “Mercer (Australia) Pty Ltd Final report to the Board of Directors on the 31 December 2022 year-end audit” and dated 28 April 2023 [DTT.0001.0001.0002 at **0021**, **0023** and **0024**]. It is inferred from the title and date of the report that it was presented to the MAPL Board on around 28 April 2023.

- 60 On 13 March 2024, Deloitte relevantly advised the MSAL Audit and Risk Committee that:
- (a) information contained in the GRC Database for incidents did not appear to be complete and/or of consistent quality;
 - (b) it appeared that a number of incidents had been open for more than the 30-day investigation period; and
 - (c) there was a risk that other incidents which had been open for more than 30 days had not been reported to ASIC.

Particulars

Deloitte report titled “Final report to the Audit and Risk Committee Mercer Superannuation (Australia) Limited Year ended 31 December 2023” [DTT.0001.0001.0009 at **0013**].

- 61 On or around 22 April 2024, Deloitte relevantly advised MAPL that:
- (a) information contained in the GRC Database for incidents did not appear to be complete and/or of consistent quality; and
 - (b) it appeared that a number of incidents had been open for more than the 30-day Investigation period.

Particulars

Deloitte report titled “Report on our audits to the Board of Directors Mercer (Australia) Pty Ltd Year ended 31 December 2023” dated 22 April 2024

[DTT.0001.0001.0003 at 0026]. It is inferred from the Foreword of the report that it was presented to the MAPL Board on around 29 April 2024.

62 During the Relevant Period, MSAL did not take any, or any adequate, steps to rectify the Deficiencies or ensure that MAPL rectified the Deficiencies.

F. MSAL's failure to report Reportable Investigations within time or at all

63 During the Relevant Period, MSAL was required to lodge a report in relation to a reportable situation (as defined in ss 912D(1)(a) to (d) of the *Corporations Act*) within 30 days of the circumstances in s 912DAA(3).

64 By reason of the Deficiencies, during the Relevant Period, MSAL:

(a) failed to adequately identify Investigations that had continued for more than 30 days; and

(b) failed to report Reportable Investigations to ASIC as required by s 912DAA(3).

65 By way of example, MSAL failed to report within time, or at all, Reportable Investigations in relation to the following incidents lodged in the GRC Database:

(a) INC-0011906;

(b) INC-0013541;

(c) INC-0017604;

(d) INC-0017236;

(e) INC-0016363;

(f) INC-0016689;

(g) INC-0017268; and

(h) INC-0019650.

66 Each of the above incidents is summarised in **Annexure B**. For each incident:

(a) The Investigation commenced at least from the date in Column E, being the date that the incident was assessed as having a potential compliance impact, or in the case of INC-0013541, the date on which the Investigation was re-enlivened.¹

¹ INC-0013541 was selected as having a potential compliance impact on 12 July 2023, almost one year after it was lodged in the GRC Database. Five days later, on 17 July 2023, the compliance assessment field within the GRC

- (b) MSAL investigated whether there had been a reportable situation of the kind mentioned in ss 912D(1)(a) and/or (b) of the *Corporations Act*.
- (c) The Investigation continued for more than 30 days.
- (d) The date the Investigation should have been reported to ASIC is identified in Column G.
- (e) The date compliance staff considered that the Investigation disclosed no reportable situation of the kind mentioned in ss 912D(1)(a) or (b) of the *Corporations Act* is identified in Column H (where applicable).
- (f) The date on which the outcome in sub-paragraph (e) above ought to have been reported to ASIC is identified in Column I.

67 For each Incident, other than INC-0011906, no report was submitted to ASIC.

G. Estimated broader impact of the Deficiencies

68 In the period 1 October 2021 to 26 July 2024:

- (a) 2,018 incidents related to MSAL were lodged in the GRC Database;
- (b) of the 2,018 incidents lodged, 1,214 were subject to a compliance assessment;
- (c) in respect of 540 incidents (of the 1,214 incidents subject to a compliance assessment) there were more than 30 days between the date of the initial assessment and the date that the compliance assessment was completed (which by reason of the matters alleged at paragraph 28 above indicates that an Investigation was on foot for more than 30 days);
- (d) in respect of 336 incidents (of the 1,214 incidents subject to a compliance assessment) there were more than 60 days between the date of the initial assessment and the date that the compliance assessment was completed (which by reason of the matters alleged at paragraph 28 above indicates that an Investigation was on foot for more than 60 days); and

Database was updated to record that there was no regulatory impact, SIRP did not need to be notified, and the compliance assessment status was updated directly to "completed". However, on 11 December 2023, the compliance assessment status within the GRC Database was changed from 'completed' to "investigation" and on 18 December 2023, MSAL's Senior Manager of Risk Management for MSAL sought further information from an Incident Manager to inform a compliance assessment. In those circumstances, ASIC relies on 18 December 2023 as the Investigation start date for that incident.

- (e) MSAL only submitted 24 “initial reports” in relation to a reportable situation to ASIC (as opposed to update or follow-up reports in respect of reportable situations that had previously been reported). Of the 24 reports, 15 related to Reportable Investigations.

H. MSAL’s false or misleading statements

69 INC-0011906:

- (a) concerned the failure to create employer-sponsored accounts for members, at the request of employers, which could impact the correct allocation of superannuation contributions, fees charged, and default insurance to members in circumstances where members were likely unaware that they could be eligible for employer-sponsored insurance arrangements or that their employer-sponsored account had not been correctly created by MSAL; and
- (b) impacted all plans of the MST.

Particulars

Scout extract for INC-0011906 as at 19 December 2024 [MSA.0019.0001.7332 at .7333-.7334].

70 MSAL lodged five reports with ASIC in relation to a reportable situation for INC-0011906 on the following dates:

- (a) 21 April 2023 (**First Report**);
- (b) 27 October 2023 (**Second Report**);
- (c) 10 May 2024 (**Third Report**);
- (d) 15 November 2024 (**Fourth Report**); and
- (e) 30 April 2025 (**Fifth Report**).

71 The Senior Compliance Manager for MSAL (**Senior Compliance Manager**) was responsible for, and did prepare and submit, each of the First, Second, Third and Fourth Reports. The Fifth Report was prepared and submitted by the Compliance Manager for MSAL.

The Second Report

- 72 The Second Report included the following statement under the heading “Client impact” (**Client Impact Statement**):

Question	MSAL statement
Has the reportable situation affected any clients – or (where relevant) are there likely to be any clients affected if the breach does occur	Not known

- 73 In the Relevant Period, and at the time that MSAL submitted the Second Report, ASIC Regulatory Guide 78 (**RG 78**) provided the following guidance as to how licensees should calculate and report the number of clients affected by a reportable situation: “*You should include the number of clients that, at the time of lodging the report, you believe have been or are likely to have been impacted. This includes financial and non-financial loss or damage (e.g. inconvenience, distress).*”

Particulars

ASIC Regulatory Guide 78 “*Breach reporting by AFS licensees and credit licensees*” (April 2023) at paragraphs [78.168] – [78.170].

- 74 By 12 May 2023, MSAL had determined that at least 231 members were impacted as a result of INC-0011906 and that those 231 members would be remediated first, with any further impacted members to be remediated subsequently.
- 75 On 12 May 2023, the GRC Database entry for INC-0011906 was updated to record the impacted funds and members under investigation, which relevantly included reference to the following matters:
- (a) that 231 members of a particular subplan (being MT355) had been identified as being impacted (**Impacted Subplan**); and
 - (b) that remediation of members of the Impacted Subplan would occur first, with other impacted members to follow.

Particulars

INC-0011906 audit log report dated 12 May 2023 [MSA.0034.0001.0031].

The following words were included under the subheading "Action description":

1. Investigate impacted funds and members

12/01/2023 – Updated impacted members/funds as per below:

....

231 – MT355

....

2. Correct the member record to prevent ongoing exposure to the error

....

11/05/23 – Remediation will be started with MT355 [fund name] first and if all ok this will be starting on next week ... Once we rectify impacted members for [fund name] ie 231 Member currently and then followed by the rest of subplans. ...

76 On 20 June 2023, at an incident triage meeting at which the Senior Compliance Manager was in attendance, the Incident Manager for INC-0011906 provided a verbal update on the progress of the investigation into the incident. Specifically, the Incident Manager reported that:

- (a) a potentially impacted cohort of 7,700 members had been identified; and
- (b) an assessment of whether there had been any customer detriment was still being undertaken.

Particulars

Minutes of MSAL Incident Triage Meeting held on 20 June 2023 at 11am
[MSA.0013.0001.0009].

77 On 23 June 2023, the Senior Compliance Manager was informed by the Incident Manager for INC-0011906 that there were 7,761 impacted members being investigated, of which 231 members had been remediated and issued an apology.

Particulars

Email of 23 June 2023 to MSAL's Senior Manager of Risk Management
[MSA.0001.0001.2434].

78 On 19 July 2023, the Senior Compliance Manager received an updated version of a remediation plan for INC-0011906. The remediation plan relevantly provided that

members of the Impacted Subplan would be remediated first in advance of other sub-plans, and that 231 members had received a letter of apology.

Particulars

Email of 19 July 2023 to MSAL's Senior Manager of Risk Management [MSA.0014.0001.0740]; Remediation Plan (v 6) dated 16 July 2023 [MSA.0014.0001.0743].

- 79 By reason of the matters alleged in paragraphs 74 - 78 above, in fact, and at the time of submitting the Second Report, the Senior Compliance Manager for MSAL, and MSAL, knew that at least 231 members had been impacted by INC-0011906 and remediated (**Known Impact**).

Particulars

As to the attribution of knowledge to MSAL, ASIC refers to and repeats paragraph 96 below.

- 80 In the premises, and having regard to the matter alleged at paragraph 73 above, the Client Impact Statement was false in a material particular or materially misleading for the purposes of s 1308(6) of the *Corporations Act*.

The Third Report

- 81 The Third Report included the following statement under the heading "Extent/impact" and the subheading "Number of instances" (**Instances Statement**):

Question	MSAL statement
Specify the total number of instances of the event that relate to the reportable situation	4

- 82 At the time of answering the "number of instances" question identified above, the following two information callouts were presented to the user completing the report:

We understand at the time of reporting to ASIC your investigation may be ongoing. We encourage you to provide best estimates where actual numbers or timeframes are unknown. You can provide an update once more information is known.

If 100 customers were each charged an erroneous fee, then the total number of instances of the event is 100. If 100 customers were each charged two erroneous fees, then the total number of instances of the event is 200.

- 83 The Third Report included the following statements under the heading “Extent/impact” and the subheading “Client impact” (**Affected Clients Statement**):

Question	MSAL statement
Has the reportable situation affected any clients – or (where relevant) are there likely to be any clients affected if the breach does occur?	Yes
Specify the total number of clients the reportable situation affects – or will likely affect if the breach does occur (if the investigation is not yet complete this can be an estimate)	50
Is this number an estimate?	Yes

- 84 At the time of answering “yes” to the first question in the table at paragraph 83 above (Has the reportable situation affected...), the following information callout was presented to the user completing the report:

You can find some guidance on how to calculate the number of clients affected in Appendix 2 of Regulatory Guide 78 Breach reporting by AFS licensees and credit licensees (RG 78). If you are providing an estimate, this must be based on the information you currently have at the time of reporting and it must be a genuine estimate. You should provide an update to us once more information is known.

- 85 At the time of submitting the Third Report, RG 78 included guidance for calculating and reporting estimates.

Particulars

ASIC Regulatory Guide 78 “Breach reporting by AFS licensees and credit licensees” (December 2023) at paragraphs [78.170] – [78.172].

86 By reason of the matters alleged in paragraphs 74 - 78 above, in fact, at the time of submitting the Third Report, the Senior Compliance Manager for MSAL, and MSAL, were aware of the Known Impact.

Particulars

- (i) The 12 May 2023 update to the GRC Database entry for INC-0011906 referred to in paragraph 75 above remained in place at the time that the Third Report was submitted.
- (ii) As to the attribution of knowledge to MSAL, ASIC refers to and repeats paragraph 96 below.

87 In the premises, and having regard to the matters alleged in paragraphs 82, 84, and 85 above, each of the Instances Statement and the Affected Client Statement was false in a material particular or materially misleading for the purposes of s 1308(6) of the *Corporations Act*.

The Fourth Report

88 The Fourth Report included the following statement under the heading “Extent/impact” and the sub-heading “Number of instances” (**Second Instances Statement**):

Question	MSAL statement
Specify the total number of instances of the event that relate to the reportable situation	7

89 The Fourth Report included the following statement under the heading “Extent/impact” and the sub-heading “Client impact” (**Second Affected Clients Statement**):

Question	MSAL statement
Specify the total number of clients the reportable situation affects – or will likely affect if the breach does occur (if the investigation is not yet complete this can be an estimate)	450

90 At the time of completing the “number of instances” question identified at paragraph 88 above, the information callout referred to at paragraph 82 above was presented to the user completing the Fourth Report.

91 On 1 November 2024, the GRC Database entry for INC-0011906 was updated to record the number of impacted members. The update under the value “Who is impacted?” stated:

Any member of the Superb and Sonata funds who have more than one account in the registry system (or an attempt is made to have more than one account):

- *122 Valid MRR’s received for the period across various employer plans (refer to appendix 1)*
- *5709 Invalid MRR’s (34 MRR requests received for members who are on claim or have had a claim during the period, these were investigated and found to all be invalid MRR’s and no further action required.)*
- *6526 MRR’s from Non Participating Employers*

There was a total of 12,357 MRR’s reviewed as part of this incident.

Particulars

INC-0011906 audit log report dated 1 November 2024 [MSA.0037.0001.0024].

92 By reason of the matters alleged in paragraph 91 above, in fact at the time of submitting the Fourth Report, MSAL:

- (a) was aware that around 5,831 members were likely impacted by INC-0011906 (being those members for whom a valid MRR had been submitted and those members for whom an invalid MMR had been submitted) (**Updated Known Impact**);
- (b) could not reasonably have considered that there were seven instances of the event relating to the reportable situation; and
- (c) could not reasonably have considered that 450 members were impacted as a result of the incident.

93 In the premises:

- (a) the Second Affected Clients Statement was false in a material particular or materially misleading for the purposes of s 1308(6) of the *Corporations Act*; and

- (b) having regard to the matter alleged at paragraph 90 above, the Second Instances Statement was false in a material particular or materially misleading for the purposes of s 1308(6) of the *Corporations Act*.

Free text description included in the Second, Third, and Fourth Reports

- 94 Further to the matters alleged in paragraphs 80 and 87 above, the “Describe the reportable situation” field, which was a free text field, in the Second and Third Reports did not include any reference to the Known Impact or substantially similar matters which would have notified ASIC of the extent and significance of the incident under investigation by MSAL.
- 95 Further to the matters alleged in paragraph 93 above, the “Describe the reportable situation” field, which was a free text field in the Fourth Report, did not include any reference to the Known Impact or the Updated Known Impact nor did it reference substantially similar matters which would have notified ASIC of the extent and significance of the incident under investigation by MSAL.

The Second, Third and Fourth Reports were materially false or misleading

- 96 By reason of the matters alleged in paragraphs 71, 74, 75, 76, 77, 78, 79, 91, and 92 above, knowledge of the Known Impact and the Updated Known Impact is attributable to MSAL under s 769B(3) of the *Corporations Act*.
- 97 In the circumstances alleged in paragraphs 72 - 95 and 96 above:
- (a) each of the Client Impact Statement, the Instances Statement, the Affected Clients Statement, the Second Affected Clients Statement, and the Second Instances Statement were statements that were false in a material particular or materially misleading;
 - (b) each of the Second, Third, and Fourth Reports were materially false or misleading because of the inclusion of the statements above;
 - (c) MSAL knew that or was reckless as to whether each of the Second, Third, and Fourth Reports was materially false or misleading;
 - (d) notwithstanding, ASIC does not allege that MSAL set out to deliberately mislead ASIC.

98 Alternatively to paragraph 97 above:

- (a) each of the Second, Third, and Fourth Reports were materially false or misleading because of the inclusion of the statements referred to in paragraph 97(a) above;
- (b) by reason of the matters alleged in paragraphs 75, 76, 77, 78, and 91 above, MSAL failed to consider, or properly consider, relevant documents including the GRC Database entry for INC-0011906 prior to lodging the Second, Third, and Fourth Reports or make other relevant inquiries; and
- (c) by reason of the matter alleged in sub-paragraph (b) above, MSAL's conduct was reckless or constituted a failure to take all reasonable steps to ensure that each of the Second, Third, and Fourth Reports were not materially false or misleading.

I. The contraventions alleged against MSAL

99 By reason of the Deficiencies and the matters alleged in paragraphs 3, 4, and 52 - 67 above, MSAL did not comply with the financial services laws (being the Reportable Situations Regime) in contravention of s 912A(1)(c) of the *Corporations Act* during the following periods:

- (a) 1 October 2021 to May 2023;
- (b) May 2023 to August 2024; and
- (c) August 2024 to September 2024.

100 By reason of the Deficiencies and the matters alleged in paragraphs 3, 4, 52 - 67, and 99 above, MSAL did not do all things necessary to ensure that the financial services covered by its AFSL were provided efficiently, honestly and fairly, in contravention of ss 912A(1)(a) and 912A(5A) of the *Corporations Act* during the following periods:

- (a) 1 October 2021 to May 2023;
- (b) May 2023 to August 2024; and
- (c) August 2024 to September 2024.

101 By reason of the matters alleged in paragraphs 64 - 67 above, MSAL contravened ss 912DAA(1) and (7) of the *Corporations Act* in respect of the incidents described in paragraph 65.

102 By knowingly or recklessly lodging the Second, Third and Fourth Reports with ASIC in circumstances where each report was materially false or misleading because of statements made in those documents, MSAL contravened s 1308(4) of the *Corporations Act*.

103 Alternatively to paragraph 102 above, by failing to take all reasonable steps to ensure that the Second, Third and Fourth Reports were not materially false or misleading because of statements made in those documents, MSAL contravened s 1308(5) of the *Corporations Act*.

AND ASIC SEEKS:

ASIC seeks the relief set out in the Originating Process filed on 14 August 2025.

Date: 17 October 2025



.....
Signed by Alana Giles, Holding Redlich
Lawyer for the Plaintiff

This pleading was prepared by F K Forsyth and R M Burd, Counsel for the Plaintiff.

Certificate of lawyer

I Alana Giles certify to the Court that, in relation to the statement of claim filed on behalf of the Plaintiff, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 17 October 2025



.....
Signed by Alana Giles
Lawyer for the Plaintiff

Annexure A – MSAL’s policy and procedure documents comprising the Documented System

Document name	Version	Approval date (where known)	Period in which document in force (where known)
Incident Management Policy	Version 6.0	November 2018	November 2018 to May/June 2021
Incident Management Policy	Version 7.0	May/June 2021	May/June 2021 to April 2022
Incident Management Policy	Version 7.1	April 2022	April 2022 to February 2023
Incident Management Policy	Version 8.0	February 2023	February 2023 to 19 August 2024
Incident Management Policy	Version 9.0	19 August 2024	19 August 2024 to at least March 2025
Management of reportable situation process flow	Version 0.1	1 October 2021	
Management of potential reportable situations	Version 1.0	9 March 2022	
Management of potential reportable situations	Version 2.0	March 2023	March 2023 to 31 May 2024
Management of potential reportable situations Guide	Version 3.0	May 2024	1 June 2024 to at least September 2024
Australia Breach Reporting: Initial Triaging Checklist (v1.0)	Version 1.0	1 October 2021	30 November 2021 to 26 January 2022
Australia Breach Reporting: Initial Triaging Checklist (v2.0)	Version 2.0	27 January 2022	27 January 2022 to 12 May 2022
Australia Breach Reporting: Initial Triaging Checklist (v3.0)	Version 3.0	13 May 2022	13 May 2022 to 30 May 2024
Australia Breach Reporting: Initial Triaging Checklist (v3.0)	Version 3.12		
Australia Breach Reporting: Initial Triaging Checklist (v4.0)	Version 4.0	May 2024	31 May 2024 to at least September 2024
Line 1 Incident Fact Finding Checklist	Version 1.0		
Line 1 Incident Fact Finding Checklist	Version 2.0		
Scout Incident Management Guidelines V1.0	Version 1.0		
Scout Incident Management Guidelines V2.0	Version 2.0		
Scout Incident Management Guidelines V2.1	Version 2.1		
Mercer Super Line 1 Risk and Compliance: Incident Entry Template			

Document name	Version	Approval date (where known)	Period in which document in force (where known)
Mercer Super Line 1 Risk and Compliance Existing Incident Uplift Requirements			
Mercer Super Line 1 Risk and Compliance: Incident Entry, Validation Process & Incident Support			

Annexure B – Summary of Incidents

A. Incident number and title	B. Date occurred	C. Date identified	D. Date lodged in Scout	E. Investigation start date	F. Day 31	G. Date s 912D(1)(c) report should have been submitted	H. Date MSAL considers no reportable situation under ss 912D(1)(a) or (b) has arisen (date compliance assessment completed)	I. Date s 912D(1)(d) report should have been submitted	J. Number of days of Investigation
INC-0011906 <i>MST #11906 - New accounts with default insurance have not been created for existing retained members of the fund</i>	20/12/2021	01/02/2022	07/02/2022	07/02/2022	10/03/2022	11/04/2022 ²	N/A	N/A	N/A
INC-0013541 <i>Mercer Super INC #13541 - The updates submitted by the employer through SuperStream(SS) are not being processed</i>	08/08/2022	08/08/2022	09/08/2022	18/12/2023	18/01/2024	19/02/2024 ³	1/08/2024	02/09/2024 ⁴	227
INC-0017604 <i>MST (MT285) #17604 - Multiple issues impacting [employer] fund</i>	01/11/2022	11/10/2023	12/10/2023	12/10/2023	12/11/2023	12/12/2023	09/11/2024	09/12/2024	394
INC-0017236 <i>[Employer] Super #17236 - Incorrect investment fee disclosed in Product Guide document</i>	30/06/2022	13/04/2023	31/08/2023	31/08/2023	1/10/2023	31/10/2023	08/11/2024	09/12/2024 ⁵	435

² The expiration of the 30 day period was 9 April 2022, a Saturday. Monday, 11 April 2022 was the next business day.

³ The expiration of the 30 day period was 17 February 2024, a Saturday. Monday, 19 February 2024 was the next business day.

⁴ The expiration of the 30 day period was 31 August 2024, a Saturday. Monday, 2 September 2024 was the next business day.

⁵ The expiration of the 30 day period was 8 December 2024, a Sunday. Monday, 9 December 2024 was the next business day.

A. Incident number and title	B. Date occurred	C. Date identified	D. Date lodged in Scout	E. Investigation start date	F. Day 31	G. Date s 912D(1)(c) report should have been submitted	H. Date MSAL considers no reportable situation under ss 912D(1)(a) or (b) has arisen (date compliance assessment completed)	I. Date s 912D(1)(d) report should have been submitted	J. Number of days of Investigation
INC-0016363 <i>Mercer Super #16363 - Unallocated monies greater than 28 days</i>	01/05/2023	07/06/2023	13/06/2023	14/06/2023	15/07/2023	14/08/2023	23/05/2024	24/06/2024 ⁶	344
INC-0016689 <i>Mercer Super (ST200) #16689 - Communication not issued to the members when moving from active employment to the retained section – [Employer] Group Plan</i>	01/04/2023	11/07/2023	11/07/2023	12/07/2023	12/08/2023	11/09/2023	11/04/2024	13/05/2024 ⁷	274
INC-0017268 <i>Multi Fund #17268 - Members insurance premiums refunds not processed correctly after date of death</i>	22/04/2014	05/09/2023	05/09/2023	05/09/2023	6/10/2023	6/11/2023 ⁸	29/05/2024	28/06/2024	267
INC-0019650 <i>Mercer Super (MT355) #19650 - Insurance has not been loaded correctly after 01/12/2023 changes for Cat 4</i>	14/12/2023	14/06/2024	14/06/2024	17/06/2024	18/07/2024	19/08/2024 ⁹	30/09/2024	30/10/2024	105

⁶ The expiration of the 30 day period was 22 June 2024, a Saturday. Monday, 24 June 2024 was the next business day.

⁷ The expiration of the 30 day period was 11 May 2024, a Saturday. Monday 13 May 2024 was the next business day.

⁸ The expiration of the 30 day period was 5 November 2023, a Sunday. Monday, 6 November 2023 was the next business day.

⁹ The expiration of the 30 day period was 17 August 2024, a Saturday. Monday, 19 August 2024 was the next business day.