



ASIC
Australian Securities &
Investments Commission



INFRINGEMENT NOTICE

Section 12GX of the *Australian Securities and Investments Commission Act 2001* (Cth)

Date of giving this notice: 12 May 2025

Unique identification code: M01691610

TO: Australian Retirement Trust Pty Ltd (ACN 010 720 840) (**ART**)

1. ASIC gives this infringement notice under section 12GX of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).
2. ASIC has reasonable grounds to believe that ART has contravened an infringement notice provision as follows:
 - (a) Between 18 July 2023 and 14 July 2024 (**Relevant Period**), ART contravened 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 that those services have particular performance characteristics;
 - (b) ART is the trustee of the superannuation fund, Australian Retirement Trust (Superannuation Fund Number 60 905 115 063), which offers consumers a range of investment options, including the 'Lifecycle Investment Strategy' (**Option**) – ART's default MySuper product; and
 - (c) ART made a representation about financial services having a particular performance characteristic that was false or misleading in contravention of section 12DB(1)(e) of the ASIC Act because:
 - i. During the Relevant Period, ART published a 'Super Savings MySuper Dashboard' on its website containing superseded and inaccurate data, giving consumers the impression that the average performance of the Option over the past 10 years was better than it was.

Amount payable under this notice

3. The amount payable under this notice in relation to the alleged contravention is **\$18,780**. This amount can be paid using the method detailed in the covering letter accompanying this notice.
4. The payment period for the notice will be 28 days, beginning on the day after this notice is given, unless the period is extended, an arrangement is made for payment by instalments or the notice is withdrawn.
5. ART may, in writing, apply to ASIC to have the period in which to pay the amount extended or for an arrangement to pay the amount by instalments.

Consequences of paying the amount payable under this notice

6. If ART pays the amount stated in this notice within the time for payment mentioned above then (unless this notice is withdrawn):

- (a) any liability of ART for the alleged contravention is discharged;
 - (b) ART will not be liable to be prosecuted in a court, and proceedings seeking a pecuniary penalty order will not be brought, in relation to the alleged contravention of the infringement notice provision; and
 - (c) ART will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.
7. Payment of the amount payable under this notice is not an admission of guilt or liability.

Consequences of not paying the amount payable under this notice

8. ART may choose not to pay the amount specified in this notice.
9. If ART does not pay the amount specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, then ART may be prosecuted in a court, or proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention of the infringement notice provision.
10. The maximum pecuniary penalty that a court may order ART to pay for the alleged contravention is the greatest of:
- a) \$16.5 million; and
 - b) if the Court can determine the benefit derived and detriment avoided because of the contravention – that amount multiplied by 3; and
 - c) either:
 - i. 10% of annual turnover of the body corporate for the 12-month period ending at the end of the month in which the body corporate contravened, or began to contravene, the civil penalty provision;
 - ii. if the amount worked out under subparagraph (i) is greater than an amount equal to \$825 million - \$825 million.
11. The maximum criminal penalty that a court may order ART to pay for the alleged contravention is \$6,260,000.

Applying for more time to pay the amount payable under this notice

12. ASIC may at its discretion extend the time to pay the amount payable under this notice if ASIC is satisfied that it is appropriate to do so.
13. If ART wishes to apply for an extension of time to pay the amount specified in this notice, ART must do so in writing within 28 days after the day the notice is issued (see paragraph 20).

Applying to pay the amount payable under the notice by instalment

14. ASIC may at its discretion make an arrangement for ART to pay the amount payable by instalments if ASIC is satisfied that it is appropriate to do so.
15. If ART wishes to apply for an arrangement to pay the amount payable under the infringement notice by instalments, ART must do so in writing within 28 days after the day the notice is issued to you (see paragraph 20).

Applying to have this notice withdrawn

16. Within 28 days after the day on which this notice is given, ART may apply to have this notice withdrawn by making written representations to ASIC (see paragraph 20).

Withdrawal of this notice

17. ASIC may at its discretion, by written notice given to ART, withdraw this notice if ASIC is satisfied that it is appropriate to do so, whether or not ART has applied to have this notice withdrawn (**withdrawal notice**).
18. If the withdrawal notice is given after ART has paid the amount specified in this notice, ASIC will refund to ART the amount paid under the notice.
19. If the notice is withdrawn, then ART may be prosecuted in a court, or proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention of the infringement notice provision.

Requirements for applications

20. An application to have this notice withdrawn, for more time to pay the amount payable under this notice or to pay by instalments:
- a) must be in writing;
 - b) must include the unique identification code set out at the top of this notice;
 - 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 21.
21. You may contact ASIC in relation to this notice by contacting:

Brendan Caridi
Australian Securities and Investments Commission
GPO Box 9827
MELBOURNE VIC 3001
or by email: ACLInfringementNotices@asic.gov.au

Signature of delegate giving the notice



Brendan Caridi
as a delegate of the Australian Securities and Investments Commission