

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
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File Number: VID504/2026
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
EQUITY TRUSTEES SUPERANNUATION LIMITED (ACN 055 641 757)
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



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.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 2
(rules 2.2 and 15A.3)

ORIGINATING PROCESS

No. of 2026

Federal Court of Australia
District Registry:
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Plaintiff

EQUITY TRUSTEES SUPERANNUATION LIMITED (ACN 055 641 757)
Defendant

A. DETAILS OF APPLICATION

This application is made under ss 52(2)(b), 52(2)(c), 52(6)(b), 52(12), 54B(1), 196 and 215(1) of the *Superannuation Industry (Supervision) Act 1993 (Cth) (SIS Act)* and ss 912A(1)(a), 912A(5A), 1101B, 1317E and 1317G(1) of the *Corporations Act 2001 (Cth) (Corporations Act)*.

In this Originating Process, terms which are defined in the Statement of Claim dated 21 May 2026 have the same meaning in this document.

On the facts stated in the Statement of Claim, the Plaintiff seeks:

Declarations

- 1 Declarations that, by approving each of the Relevant Classes for inclusion as Investment Options offered to members of NQ Super on around 30 March 2023 and so offering them, ETSL contravened covenants to the effect of each of ss 52(2)(b), 52(2)(c), 52(6)(b) and 52(12) of the SIS Act contained in or taken to be contained in the governing rules of AMG Super, and thereby s 54B(1) of the SIS Act in respect of each contravention, in circumstances where ETSL did not:
 - (a) take action to obtain, review, assess or verify certain documents, or otherwise obtain adequate information, as to the non-existence, mitigation or accurate identification to NQ Super members of certain risks; or
 - (b) adequately consider or assess for itself the nature and characteristics of the FGMF and the FGMF Underlying Funds and the competency and capability of Falcon and First Guardian to invest and/or manage moneys invested by the trustee.

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission, Plaintiff		
Prepared by (name of person/lawyer)	Tom Jarvis		
Law firm (if applicable)	Johnson Winter Slattery		
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- 2 Declarations that, having approved the Relevant Classes in the circumstances set out in paragraph 1 above, by continuing to make them available to investors, on each occasion that ETSL, as trustee of AMG Super, invested in each of the Relevant Classes in the Relevant Period, ETSL contravened covenants to the effect of each of ss 52(2)(b), 52(2)(c) and 52(12) of the SIS Act contained in or taken to be contained in the governing rules of AMG Super, and thereby contravened s 54B(1) of the SIS Act in respect of each contravention of those covenants.
- 3 Declarations that, by approving each of the Relevant Classes for inclusion as Investment Options offered to members of NQ Super and so offering them, and by acting on directions of NQ Super members to invest in a Relevant Class, in the circumstances:
 - (a) identified in declaration 1; and
 - (b) further or alternatively, where ETSL's conduct was not in compliance with or fulfilment of the provisions of the policies that it had adopted and maintained as trustee of AMG Super,

ETSL failed to do all things necessary to ensure that the financial services covered by its licence were provided efficiently, honestly and fairly, in contravention of s 912A(1)(a), and thereby s 912A(5A), of the Corporations Act.

Pecuniary penalties

- 4 An order pursuant to s 196(3) of the SIS Act that ETSL pay to the Commonwealth a monetary penalty in an amount to be fixed by the Court in respect of each of the declared contraventions of s 54B(1) of the SIS Act.
- 5 An order pursuant to section 1317G(1) of the Corporations Act that ETSL pay to the Commonwealth a pecuniary penalty in such amount as the Court considers appropriate in respect of each of the declared contraventions of section 912A(5A) of the Corporations Act.

Compensation orders or remediation program orders

- 6 An order pursuant to s 215(1) of the SIS Act that ETSL pay compensation to AMG Super, in an amount to be fixed by the Court, for loss or damage AMG Super suffered on behalf of all past and present members of the AMG Super NQ Super and Pension division who:
 - (a) instructed ETSL as trustee of AMG Super to invest in any Relevant Class of the FGMF on the members' behalf; and
 - (b) in respect of whom the amount directed to be invested in each Relevant Class of the FGMF has not been redeemed by the responsible entity of the FGMF, in full,

(those current and former members of the AMG Super NQ Super and Pension division, **Affected ETSL Members**).



7 Further or alternatively to paragraph 6 above, an order pursuant to s 1101B of the Corporations Act that, by a date to be fixed by the Court, ETSL:

- (a) establish and implement a review and remediation program **(Remediation Program)** to:
 - (i) identify all Affected ETSL Members;
 - (ii) determine the loss suffered by:
 - (A) AMG Super (on behalf of all Affected ETSL Members); and
 - (B) each Affected ETSL Member,
 as a result of ETSL’s contraventions of s 912A(5A) of the Corporations Act or s 54B(1) of the SIS Act referred to above;
 - (iii) inform each Affected ETSL Member of any loss suffered by that Affected ETSL Member;
 - (iv) pay, or cause to be paid, to each Affected ETSL Member, their entitlement in respect of their loss;
- (b) appoint (at ETSL’s cost) a suitably qualified independent expert, to be agreed upon by the parties or, in the absence of agreement, to be determined by the Court, to prepare and provide to ASIC and the Court:
 - (i) on a date to be fixed by the Court, an interim report on the Remediation Program, including as to whether the expert perceives any deficiencies in the design, implementation and effectiveness of the Remediation Program; and
 - (ii) within two months of the completion of the Remediation Program, a final report on the Remediation Program, including on whether the expert perceives any deficiencies in the design, implementation and effectiveness of the Remediation Program.

Other Orders

8 An order that the Defendant pay the Plaintiff’s costs.

9 Such further or other orders as the Court considers appropriate.

Date: 21 May 2026

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Signature of Plaintiff’s legal practitioner

This application will be heard by at Owen Dixon Commonwealth Law Courts Building 305 William Street Melbourne VIC 3000 at *am/*pm on



B. NOTICE TO DEFENDANT

TO: EQUITY TRUSTEES SUPERANNUATION LIMITED (ACN 055 641 757)
Level 1, 575 Bourke Street
MELBOURNE VIC 3000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.



C. FILING

Date of filing: 21 May 2026

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Registrar

This Originating Process is filed by Johnson Winter Slattery, solicitors for the plaintiff.

D. SERVICE

The Plaintiff's address for service is

C/- JOHNSON WINTER SLATTERY
Level 34, 55 Collins Street
Melbourne VIC 3000
Email: tom.jarvis@jws.com.au

The Plaintiff's address is Level 7, 120 Collins Street, Melbourne VIC 3000.

It is intended to serve a copy of this originating process on the defendant, by its solicitors.