



ASIC
Australian Securities &
Investments Commission



INFRINGEMENT NOTICE

Section 1317DAM of the Corporations Act 2001 (Cth)

Date of giving this notice: 16 June 2025
Unique identification code: M01568764

To: Smart Financial Capital Pty Ltd (ACN 627 468 759)

1. ASIC gives this infringement notice under section 1317DAM(1) of the *Corporations Act 2001 (Cth)* (the **Corporations Act**).
2. ASIC believes on reasonable grounds that, on [REDACTED], Smart Financial Capital Pty Ltd (ACN 627 468 759) (**Smart Financial Capital**) contravened ss 921Z(1) and (3) of the *Corporations Act* (a provision that is subject to an infringement notice) as follows:
 - a. On [REDACTED], Smart Financial Capital gave a written notice under s 916A(1) of the *Corporations Act* (the **Authorisation**) to an individual (the **Relevant Provider**). The Authorisation authorised the Relevant Provider to provide personal advice to retail clients, on behalf of Smart Financial Capital, in relation to certain relevant financial products within the meaning of s 910A of the *Corporations Act* (the **Relevant Financial Products**). The Relevant Financial Products included superannuation products.
 - b. In a Statement of Advice, dated [REDACTED], the Relevant Provider provided personal advice to a retail client in relation to the Relevant Financial Products. The Statement of Advice was presented to the retail client on [REDACTED].
 - c. On [REDACTED]:
 - i. Smart Financial Capital had not revoked the Authorisation under s 916A(4) of the *Corporations Act*; and
 - ii. no registration of the Relevant Provider was in force for the purposes of s 921Z(1)(c)(ii) of the *Corporations Act*.
3. The maximum penalty that a court could impose for each offence under ss 921Z(1) and (3), if the offence were committed by Smart Financial Capital, is \$62,600.

Amount payable under this notice

4. The amount payable under this notice in relation to the alleged contravention is \$31,300. This amount can be paid using the method detailed in the covering letter accompanying this notice.
5. The payment period for the notice will be 28 days, beginning after the day on which the notice is given, unless the period is extended, an arrangement is made for payment by instalments, or the notice is withdrawn.

Consequences of paying the amount payable under this notice

6. If you pay the amount stated in this notice within the payment period then (unless the notice is withdrawn) you are not liable to be prosecuted in a court, and proceedings

seeking a pecuniary penalty order will not be brought, in relation to the alleged contravention.

7. The payment of the amount is not an admission of guilt or liability.
8. You 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 not paying the amount payable under this notice

9. You may choose not to pay the amount and, if you do, you may be prosecuted in a court, or proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention.

Withdrawal of the notice

10. You may, within 28 days after the infringement notice is given to you, make written representations to ASIC seeking the withdrawal of the notice. In deciding whether or not to withdraw the notice, ASIC must take into account your written representations. If ASIC decides to withdraw the notice, ASIC will give you a withdrawal notice. ASIC may also withdraw the notice on ASIC's own initiative.
11. If the notice is withdrawn, you may be prosecuted in a court, or proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention.

Signature of delegate giving the notice

A handwritten signature in black ink, appearing to read 'Tom O'Shea', written in a cursive style.

Tom O'Shea
as a delegate of the Australian Securities and Investments Commission