M01749343

INFRINGEMENT NOTICE

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

Date of giving this notice: 10 July 2026

Unique identification code: M01749343

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 by its conduct in the period between 10 July 2025 and 21 October 2025 (**Relevant Period**) as follows:

   (a) At all times during the Relevant Period, ART was the trustee of the Australian Retirement Trust (Unique Superannuation Identifier 60 905 115 063 003) (**Fund**);

   (b) The Fund offers 'Super Savings' accounts for members in the accumulation phase. These account holders can select from a range of investment options, including the 'Unlisted Assets' option;

   (c) Fund members have access to a Secure Member Online Portal (**MOL**) through which they can, among other things, switch their investment strategy using an online tool, 'Switch Wizard'. The tool shows members their current and proposed asset mix via an asset allocation diagram and accompanying text (**MOL Switch Diagram**);

   (d) During the Relevant Period, for Fund members with a Super Savings account with all or part of their balance in the Unlisted Assets option, or proposing to switch their investment strategy to include all or part of their balance in the Unlisted Assets option, the MOL Switch Diagram depicted that 100% of the assets allocated to the Unlisted Asset investment option were invested in '*unlisted assets and alternatives*' (**Allocation Representation**);

   (e) Notwithstanding the Allocation Representation, it was ART's policy that the Unlisted Assets option include 'a strategic 5% allocation to listed property for liquidity management';

   (f) The Fund's Portfolio Holdings Disclosure for the Unlisted Assets investment option, published by ART on 31 December 2024, 30 June 2025 and 31 December 2025, discloses an allocation to:
      a. listed property of 4.94%, 4.46% and 4.39% respectively; and
      b. listed equity of 0.38%, 0.42% and 0.39% respectively;

   (g) The Allocation Representation was false or misleading because, for the Relevant Period, the Unlisted Assets option did not consist solely of unlisted assets and alternatives. Rather, listed property and listed equity made up a proportion of the option; and

(h) By reason of the conduct outlined in paragraphs 2(a) – (g) above, the Allocation Representation contravened s 12DB(1)(a) in that it was a false or misleading representation that financial services promoted or supplied by ART, or that would possibly be supplied, were of a particular quality, namely that the Unlisted Assets option had the attribute of being solely constituted by unlisted assets and alternatives, in circumstances where listed property and listed equity formed a component of the option.

Amount payable under this notice

3. The amount payable under this notice in relation to the alleged contravention is $19,800. 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 $6.6 million.

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:

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

Signature of delegate giving the notice

Chris Rowe
as a delegate of the Australian Securities and Investments Commission