

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/10/2021 11:47:55 AM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	VID573/2021
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v DIVERSA TRUSTEES LIMITED
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



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 8/10/2021 1:15:50 PM AEDT

Registrar

### Important Information

As required by the Court's Rules, 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



**Originating process**

No. VID of 2021

Federal Court of Australia  
District Registry: Victoria  
Division: General

**In the matter of DIVERSA TRUSTEES LIMITED (ACN 006 421 638)**

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**DIVERSA TRUSTEES LIMITED (ACN 006 421 638)**

Defendant

**A. DETAILS OF APPLICATION**

This application is made under sections 912A, 1101B, 1317E, 1317G and 1324 of the *Corporations Act 2001* (Cth) (**Corporations Act**). It is an application for relief in relation to contraventions of the duties of an Australian financial services licensee.

On the facts stated in the supporting concise statement, the Plaintiff claims:

1. Declarations that, between 13 March 2019 and 18 December 2020, in relation to the promotion and sign-up or roll-over of customers by Mr Nizi Bhandari (**Bhandari**), Australian Super Finder (**ASF**) and the Australian Dealer Group Pty Ltd (**ADG**) to the YourChoice Super fund or their use of that fund in the superannuation aggregation business, the Defendant (**Diversa**):
  - (a) contravened section 912A(1)(a) of the Corporations Act, in failing to do all things necessary to ensure that financial services covered by Diversa’s Australian financial services licence, were provided efficiently, honestly and fairly;
  - (b) further or alternatively, contravened section 912A(1)(ca) of the Corporations Act, in failing to take reasonable steps to ensure that OneVue

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Filed on behalf of (name & role of party) Australian Securities and Investments Commission, Plaintiff  
 Prepared by (name of person/lawyer) Savas Miriklis  
 Law firm (if applicable) Australian Securities and Investments Commission  
 Tel (03) 9280 3442 Fax \_\_\_\_\_  
 Email [savas.miriklis@asic.gov.au](mailto:savas.miriklis@asic.gov.au)  
**Address for service** Level 7, 120 Collins Street, Melbourne VIC 3000  
 (include state and postcode) \_\_\_\_\_



Super Services Pty Ltd and OneVue Wealth Services Ltd (together, **OneVue Entities**), as Diversa's representatives (within the meaning of section 910A of the Corporations Act), whether by themselves or by their agents or representatives (Bhandari, ASF and ADG), complied with the financial services laws, relevantly sections 912A(1)(a), 912A(1)(ca), 991A and 1041H of the Corporations Act and sections 12DA and 12CB of the *Australian Securities and Investments Commission Act 2001* (Cth).

2. Orders that Diversa pay pecuniary penalties in respect of its contraventions of ss 912A(1)(a) and (ca) of the Corporations Act.
3. Injunctions:
  - (a) requiring Diversa to supervise and monitor properly the conduct of intermediaries who promote, sign-up or roll-over customers to, its superannuation funds or use them in their superannuation aggregation business, and to take steps to reduce the risks of such intermediaries engaging directly or indirectly in, or permitting, conduct which is inefficient, dishonest and unfair towards customers, or in contravention of financial services laws;
  - (b) restraining Diversa from outsourcing the day-to-day operations to intermediaries, or allowing intermediaries to promote, sign-up or roll-over customers to, its superannuation funds or use them in their superannuation aggregation business, unless:
    - (i) appropriate systems, policies and procedures are in place to ensure that the financial services covered by Diversa's licence are provided efficiently, honestly and fairly; and
    - (ii) appropriate systems, policies and procedures are in place to ensure that Diversa's representatives comply with financial services laws.
4. Orders under section 1101B(1) of the Corporations Act requiring Diversa to:
  - (a) implement and maintain appropriate systems, policies and procedures to ensure that the financial services covered by Diversa's Australian financial services licence are provided efficiently, honestly and fairly, and that its representatives comply with financial services laws;



- (b) implement and maintain an appropriate program to notify and remediate clients who may have been affected by the conduct of the OneVue Entities and Bhandari, ASF and ADG described in the Concise Statement, and to detect and remediate any other harm caused by that conduct during the Relevant Period; and
- (c) provide ASIC with a written report of an independent expert confirming Diversa's compliance with paragraphs 4(a) and (b) above.

5. Costs.

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

Date: 8 October 2021

A handwritten signature in blue ink, appearing to read 'Savas Miriklis'.

.....  
Savas Miriklis  
*Signature of plaintiff's legal practitioner*

This application will be heard by ..... at Commonwealth Law Courts 305 William Street, Melbourne VIC 3000 at ..... \*am/\*pm on ..... 2021.



**B. NOTICE TO DEFENDANT**

TO: DIVERSA TRUSTEES LIMITED (ACN 006 421 638), of Level 9, 530 Collins 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:

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*Registrar*

This originating process is filed by Savas Miriklis for the plaintiff.

**D. SERVICE**

The plaintiff's address for service is Level 7, 120 Collins Street, Melbourne VIC 3000.

It is intended to serve a copy of this originating process on the defendant.