



ASIC
Australian Securities &
Investments Commission



S02287489

INFRINGEMENT NOTICE

Section 12GXA of the *Australian Securities and Investments Commission Act 2001*

Day of issue: 28 March 2022

TO: Maritime Super Pty Limited
ACN 058 013 773

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (**ASIC Act**).
2. ASIC has reasonable grounds to believe that Maritime Super Pty Limited (**Maritime Super**) has contravened an infringement notice provision as follows:
 - (a) On or around 30 March 2021, Maritime Super contravened section 12DB(1)(g) of the ASIC Act by, in trade and 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 with respect to the price of services.
 - (b) Maritime Super issued a Significant Event Notification and accompanying investment flyer (collectively, **the SEN**) on 30 March 2021, to notify its members of the proposed investment partnership (**Investment Partnership**) between Maritime Super and Host-Plus Pty Ltd (**Hostplus**) whereby Maritime Super's investments were transferred into Hostplus' Pooled Superannuation Trust (**PST**) and equivalent Hostplus investment options.
 - (c) Maritime Super made the following representations in the SEN:
 - i. under the heading 'An overview of the benefits', it stated:

"You will also have access to greater investment opportunities through our arrangement with Hostplus, including:

...

Reduced overall investment manager fees (emphasis added) with much larger combined assets under management" (**Representation 1**)
 - ii. under the heading 'Benefits of scale', it stated:

"Investment management fees will be lower, where Maritime Super and Hostplus have common investment managers across investment options" (**Representation 2**)
 - (d) Representation 1 and 2 make representations about the price of a financial service in relation to investment management fees paid by Maritime Super members that is false or misleading in contravention of s12DB(1)(g) because:

- i. Representation 1 and 2 indicate that the Investment Partnership will result in reduced investment manager fees whereas the Investment Partnership resulted in an overall increase in investment fees, with the majority of members (77%) paying an increase in investment costs; and
- ii. the investment costs for six of the 11 initial investment options provided to Maritime Super members increased as a result of the Investment Partnership.

Amount payable under this notice

3. The amount payable under this notice in relation to the alleged contravention is \$13,320. 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 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 complying with this notice

5. If Maritime Super pays the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
 - (a) no proceedings (whether criminal or civil) will be brought against Maritime Super by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
 - (b) Maritime Super will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.

Consequences of failing to comply with this notice

6. If Maritime Super does not pay the penalty specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, the Commonwealth or ASIC may bring proceedings under Subdivision G of Division 2 of Part 2 the consumer protection provisions of the ASIC Act (whether criminal or civil) against Maritime Super for the alleged contravention of the infringement notice provision or offence constituted by the same conduct.
7. The maximum pecuniary penalty that a court may order Maritime Super to pay for the alleged contravention is the greatest of:
 - (a) \$11,100,000; 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 the 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](#); or
- ii. if the amount worked out under subparagraph (i) is greater than an amount equal to \$555 million -- \$555 million.

Applying for more time to pay the penalty under this notice

8. ASIC may extend the compliance period for this infringement notice if ASIC is satisfied that it is appropriate to do so. The extension must not be for longer than 28 days.
9. If Maritime Super wishes to apply for an extension of time to pay the penalty specified in this notice, it should do so in writing within 28 days after the day the notice is issued to Maritime Super (see paragraph 15).

Applying to have this notice withdrawn

10. Within 28 days after the day on which this notice is issued, Maritime Super may apply to ASIC in writing to have this notice withdrawn.
11. Evidence or information that Maritime Super or Maritime Super's representative gives to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against Maritime Super or Maritime Super's representative in any proceedings (other than proceedings for an offence based on the evidence or information being false or misleading).

Withdrawal of this notice

12. ASIC may, by written notice given to Maritime Super, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not Maritime Super has applied to have this notice withdrawn.
13. A withdrawal notice must be given to Maritime Super within the time for payment of this infringement notice to be effective.
14. If the withdrawal notice is given after Maritime Super has paid the penalty specified in this infringement notice, ASIC will refund to Maritime Super the amount paid under the infringement notice.

Requirements for applications

15. An application to have this notice withdrawn, or for more time to pay the penalty under this notice:
 - (a) must be in writing; and
 - (b) must include the Barcode number set out at the top of this notice; and
 - (c) must include Maritime Super's reasons for making the application; and

- (d) may be made by forwarding Maritime Super's application to ASIC at the address in paragraph 16.

16. Maritime Super may contact ASIC in relation to this notice by contacting:

Marita Hogan

Australian Securities and Investments Commission

GPO Box 9827

SYDNEY NSW 2000

or by email: ACLInfringementNotices@asic.gov.au (please copy to Tracey.Niemiec@asic.gov.au)



Marita Hogan

as a delegate of the Australian Securities and Investments Commission