

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
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File Number:	VID1658/2025
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v NETWEALTH INVESTMENTS LIMITED (ACN 090 569 109) & ANOR
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**  
(Rule 2.2)

**ORIGINATING PROCESS**

No.            of 2025

Federal Court of Australia  
District Registry:  
Division: General

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

**NETWEALTH INVESTMENTS LIMITED (ACN 090 569 109) and  
NETWEALTH SUPERANNUATION SERVICES PTY LTD (ACN 636 951 310)**  
Defendants

**A.        DETAILS OF APPLICATION**

This application is made under s 21 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**) and ss 912A(1)(a), 912A(5A) and 1317E of the *Corporations Act 2001* (Cth) (**Corporations Act**).

The plaintiff (**ASIC**) seeks against the defendants (**NIL** and **NSS**):

- 1        Declarations of contraventions of s 912A(1)(a) of the Corporations Act under s 21 of the Federal Court Act.
- 2        Declarations of contraventions of s 912A(5A) of the Corporations Act under s 1317E of the Corporations Act.
- 3        Costs.

On the facts set out in the Statement of Agreed Facts and Admissions dated 17 December 2025, ASIC seeks the following relief:

**Declarations**

- 4        A declaration that NIL (between around 26 March 2021 and 30 June 2021), in operating the Netwealth Superannuation Master Fund (**NSMF**), failed to do all things necessary to ensure that the financial services covered by its financial services licence were provided efficiently, honestly and fairly, in contravention of s 912A(1)(a) of the Corporations Act, and s 912A(5A) of the Corporations Act, where:
  - (a)        having regard to the apparent nature and characteristics of the First Guardian Master Fund (**FGMF**), NIL did not obtain and, therefore, did not assess sufficient information about the FGMF, and did not make sufficient independent enquiries, to understand or evaluate investment risk in the First Guardian Diversified Strategies

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		
Tel	+61 3 8611 1336	Fax	+61 3 8611 1300
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<b>Address for service</b> (include state and postcode)	Level 34, 55 Collins Street MELBOURNE VIC 3000		



Class (**Diversified Class**) or the First Guardian Growth Strategies Class (**Growth Class**) investment options prior to or while offering them to members with an interest in the NSMF's Super Accelerator Plus product;

- (b) in the circumstances described in paragraph (a) above, NIL:
- (i) approved the Diversified Class and Growth Class as investment options made available to members for selection;
  - (ii) while NSMF trustee, made investments in the Diversified Class and Growth Class at the direction of members up to an investment limit of 100% of the member's account (less any minimum cash holding which the affected member was required to maintain); and
  - (iii) while NSMF trustee, continued to offer the Diversified Class and Growth Class as investment options on the investment platform maintained and operated by NIL through which members holding an interest in the NSMF and financial advisers authorised to act on behalf of those members could:
    - (A) access and operate their cash account in the NSMF;
    - (B) select, and give direction to the NSMF trustee to acquire or divest an investment in a range of investment options made available by the NSMF trustee; and/or
    - (C) access information about their investments;

**(Netwealth Platform)**

- (c) while NSMF trustee, it did not inform NSMF members of the potential illiquidity of the Diversified Class and Growth Class investment options while they were offered to members.

5 A declaration that NSS (from 1 July 2021 to around 27 May 2024), in operating the NSMF, failed to do all things necessary to ensure that the financial services covered by its financial services licence were provided efficiently, honestly and fairly, in contravention of s 912A(1)(a) of the Corporations Act, and s 912A(5A) of the Corporations Act, where:

- (a) having regard to the apparent nature and characteristics of the FGMF, NSS did not obtain and, therefore, did not assess sufficient information about the FGMF, and did not make sufficient independent enquiries, to understand or evaluate investment risk in the Diversified Class or the Growth Class investment options while offering them to members with an interest in the NSMF's Super Accelerator Plus product;
- (b) in the circumstances described in paragraph (a) above, NSS:
- (i) while NSMF trustee, made investments in the Diversified Class and Growth Class at the direction of members up to an investment limit of 100% of the member's account (less any minimum cash holding which the affected member was required to maintain);
  - (ii) while NSMF trustee, continued to offer the Diversified Class and Growth Class as investment options on the Netwealth Platform;



- (c) while NSMF trustee, it did not inform NSMF members of the potential illiquidity of the Diversified Class and Growth Class investment options while they were offered to members, prior to 6 December 2022; and
- (d) on or after removing the Diversified Class and Growth Class from the investment "menu" administered by NIL on or around 22 December 2022, NSS did not inform NSMF members whose accounts recorded an investment in those classes of concerns held about the FGMF relevant to a member's future investment directions about their investment.

**Other orders**

- 6 An order that the defendants pay ASIC's costs in an amount to be agreed between the parties or, in the absence of agreement, as taxed.
- 7 Such further or other orders as the Court thinks fit.

Date: 17 December 2025

*John Winter Stotley* .....

*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(S) (IF ANY)**

**TO: NETWEALTH INVESTMENTS LIMITED (ACN 090 569 109)**

c/- Herbert Smith Freehills Kramer  
Level 80 Collins Street  
MELBOURNE VIC 3000

**AND NETWEALTH SUPERANNUATION SERVICES PTY LTD (ACN 636 951 310)**

c/- Herbert Smith Freehills Kramer  
Level 80 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: 17 December 2025

.....  
*Registrar*

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

**D. SERVICE**

The Plaintiff's address for service is:

Johnson Winter Slattery  
Level 34, 55 Collins Street  
MELBOURNE VIC 3000

It is intended to serve a copy of this Originating Process on each defendant