



**ASIC**  
Australian Securities &  
Investments Commission

S02181230

## INFRINGEMENT NOTICE

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

Date of giving this notice: 22 May 2025

Unique identification code: S02181230

TO: Equity Trustees Limited (ACN 004 031 298)

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 Equity Trustees Limited (ACN 004 031 298) (**ETL**) has contravened an infringement notice provision by its conduct in the period 10 April 2024 to 7 November 2024 (**Relevant Period**) as follows:
  - (a) At all times during the Relevant Period, ETL was the trustee and responsible entity of the Artesian Green and Sustainable Bond Fund ARSN 643 700 556 (**Fund**).
  - (b) ETL issued a Target Market Determination for the Fund dated 24 October 2022 (**2022 TMD**), which contained the following statement:
    - a. *'The Fund will invest in global green, sustainable and social corporate bonds and cash. These corporate bonds will be issued by Australian and international companies.'*<sup>1</sup>
  - (c) ETL issued a subsequent Target Market Determination for the Fund dated 23 May 2024 (**2024 TMD**), which contained the following statements:
    - a. *'The Fund invests in a diversified portfolio of liquid, fixed and floating rate green and sustainable corporate bonds.'*<sup>2</sup>
    - b. *'The Fund will invest in global green, sustainable and social corporate bonds and cash. These corporate bonds will be issued by Australian and international companies.'*<sup>3</sup>
  - (d) ETL made the 2022 TMD and subsequently the 2024 TMD available to the public on a website it hosted relating to the Fund at all times during the Relevant Period.
  - (e) By publishing the statements outlined above at paragraphs 2(b)(a), 2(c)(a) and 2(c)(b) (together, the **Investment Representations**) in the respective 2022 TMD and 2024 TMD on its website, ETL represented that the Fund invests exclusively in corporate bonds (and cash).
  - (f) Contrary to the Investment Representations, during part or all of the Relevant Period, the Fund had holdings in the following government bonds and supranational bonds:

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<sup>1</sup> 2022 TMD, page 2.

<sup>2</sup> 2024 TMD, page 2.

<sup>3</sup> 2024 TMD, page 2.

Issuer	Sector	Holding period
AUSTRALIAN OFFICE OF FINANCIAL MANAGEMENT	Government - Australian	14/06/2024 – 27/08/2024
ASIAN DEVELOPMENT BANK	Government – International	06/05/2021 – 09/01/2025
AFRICAN DEVELOPMENT BANK	Government – International	16/06/2021 – 27/02/2025
RENTENBANK	Government – International	23/09/2021 – 09/09/2024
EUROPEAN INVESTMENT BANK	Government – International	19/01/2022 – 31/05/2024
ASIAN DEVELOPMENT BANK	Government – International	03/01/2024 – 16/01/2025
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT	Government – International	13/01/2023 – 26/11/2024
EUROPEAN INVESTMENT BANK	Government – International	21/02/2023 – 27/02/2025
INTERNATIONAL FINANCE CORPORATION	Government – International	23/08/2023 – 27/02/2025
ASIAN DEVELOPMENT BANK	Government – International	17/01/2024 – 31/05/2024
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT	Government – International	10/01/2025 – 27/02/2025
ASIAN DEVELOPMENT BANK	Government – International	16/01/2025 – 27/02/2025
ASIAN DEVELOPMENT BANK	Government – International	16/01/2025 – 16/01/2025
AUSTRALIAN POSTAL CORPORATION	Government Services - Australian	22/05/2023 – 27/02/2025
NEDERLANDSE WATERSCHAPSBANK	Government Services - International	04/03/2022 – 27/02/2025
NEW SOUTH WALES TREASURY CORPORATION	Semi Government - Australian	21/03/2022 – 27/02/2025
WESTERN AUSTRALIAN TREASURY CORPORATION	Semi Government - Australian	15/06/2023 – 27/02/2025
SOUTH AUSTRALIAN GOVERNMENT FINANCING AUTHORITY	Semi Government - Australian	21/03/2024 – 27/02/2025

(g) By reason of the conduct outlined in paragraph 2(f) above, the Investment Representations were liable to mislead the public as to the nature or characteristics of the Fund, in contravention of section 12DF of the ASIC Act.

#### **Amount payable under this notice**

3. The amount payable under this notice in relation to the alleged contravention is \$18,780. 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. ETL 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 ETL pays the amount stated in this notice within the time for payment mentioned above then (unless this notice is withdrawn):
  - (a) any liability of ETL for the alleged contravention is discharged;
  - (b) ETL 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) ETL 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. ETL may choose not to pay the amount specified in this notice.
9. If ETL does not pay the amount specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, then ETL 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 ETL to pay for the alleged contravention is the greatest of:
- a) \$15,650,000; 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 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 \$782,500,000 - \$782,500,000.

**Applying for more time to pay the amount payable under this notice**

11. 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.
12. If ETL wishes to apply for an extension of time to pay the amount specified in this notice, ETL must do so in writing within 28 days after the day the notice is issued (see paragraph 19).

**Applying to pay the amount payable under the notice by instalment**

13. ASIC may at its discretion make an arrangement for ETL to pay the amount payable by instalments if ASIC is satisfied that it is appropriate to do so.
14. If ETL wishes to apply for an arrangement to pay the amount payable under the infringement notice by instalments, ETL must do so in writing within 28 days after the day the notice is issued to you (see paragraph 19).

**Applying to have this notice withdrawn**

15. Within 28 days after the day on which this notice is given, ETL may apply to have this notice withdrawn by making written representations to ASIC (see paragraph 19).

**Withdrawal of this notice**

16. ASIC may at its discretion, by written notice given to ETL, withdraw this notice if ASIC is satisfied that it is appropriate to do so, whether or not ETL has applied to have this notice withdrawn (**withdrawal notice**).
17. If the withdrawal notice is given after ETL has paid the amount specified in this notice, ASIC will refund to ETL the amount paid under the notice.

18. If the notice is withdrawn, then ETL 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**

19. 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 20.
20. You may contact ASIC in relation to this notice by contacting:

Sophie Cox  
Australian Securities and Investments Commission  
GPO Box 9827  
MELBOURNE VIC 3001  
or by email: [ACLInfringementNotices@asic.gov.au](mailto:ACLInfringementNotices@asic.gov.au); copying  
[Sophie.Cox@asic.gov.au](mailto:Sophie.Cox@asic.gov.au)



Marita Hogan  
as a delegate of the Australian Securities and Investments Commission