

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)
Date of Lodgment:	10/06/2025 3:19:47 PM AEST
Date Accepted for Filing:	10/06/2025 3:32:12 PM AEST
File Number:	VID736/2025
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v AUSTRALIAN UNITY FUNDS MANAGEMENT LIMITED (ACN 071 497 115)
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.

ORIGINATING PROCESS

No. VID of 2025

FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL

IN THE MATTER OF AUSTRALIAN UNITY FUNDS MANAGEMENT LIMITED
ACN 071 497 115

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Plaintiff

AUSTRALIAN UNITY FUNDS MANAGEMENT LIMITED (ACN 071 497 115)
Defendant

A. DETAILS OF APPLICATION

This application is made under sections 19 and 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**) and sections 1317E, 1317G and 1101B of the *Corporations Act 2001* (Cth) (**Corporations Act**).

The Plaintiff seeks declarations of contraventions of the Corporations Act, pecuniary penalty orders and ancillary orders, including costs.

In this Originating Process:

Fund means Australian Unity Select Income Fund.

Fund TMDs means the Select Income Fund target market determinations dated 5 October 2021, 21 December 2022 and 24 May 2023.

Relevant Period means 5 October 2021 to 5 October 2023.

Target market means a target market as defined in s 994A(1) of the Corporations Act as in force during the Relevant Period.

On the facts stated in the Concise Statement, the Plaintiff seeks:

Declaration

1 A declaration pursuant to section 21(1) of the FCA Act and section 1317E(1) of the Corporations Act that, during the Relevant Period, the Defendant engaged in

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission (Plaintiff)		
Prepared by (name of person/lawyer)	Nick Kelton, Lawyer		
Law firm (if applicable)			
Tel		Fax	N/A
Email			
Address for service (include state and postcode)	Level 7, 120 Collins Street, Melbourne VIC 3000		

retail product distribution conduct and contravened s 994E(3) of the Corporations Act by:

- a. on 87 occasions issuing interests in the Fund to retail clients without requiring them to submit, as part of their application, a completed questionnaire with answers to questions to determine if they were within the target market described in the Fund TMDs;
- b. on 220 occasions issuing interests in the Fund to retail clients without reviewing submitted questionnaires with answers to questions to determine if they were within the target market described in the Fund TMDs;

and thereby failed to take reasonable steps that would have resulted in, or would have been reasonably likely to have resulted in, the Defendant's retail product distribution conduct being consistent with the Fund TMDs.

Penalties

- 2 An order pursuant to section 1317G(1) of the Corporations Act that, within 30 days of the order, the Defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of AUFM's conduct declared to be contraventions of section 994E(3) of the Corporations Act occurring during the Relevant Period.

Adverse Publicity

- 3 An order pursuant to section 1101B(1)(a) of the Corporations Act requiring the Defendant, within such time as the Court sees fit, to:
 - a. disclose the contraventions declared in this proceeding, and the circumstances giving rise to those contraventions; and
 - b. publish by form, means and channels to be determined by the Court, at its own expense, those disclosures.

Other orders

- 4 Such further orders pursuant to section 1101B(1)(a) of the Corporations Act as the Court considers appropriate in respect of the Defendant's conduct declared to be contraventions of section 994E(3) of the Corporations Act.
- 5 An order that the Defendant pay the Plaintiff's costs of and incidental to the proceeding.
- 6 Such further order or other orders as the Court consider appropriate.

Date: 10 June 2025

Nick Kelton

Solicitor for the Australian Securities and Investment Commission

This application will be heard by at 305 William Street, VIC, 3000 at *am/*pm on

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: Australian Unity Funds Management Limited
Level 12, 271 Spring 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.

D. FILING

Date of filing:

.....
Registrar

This originating process is filed by the plaintiff.

E. SERVICE

The plaintiff's address for service is:

Australian Securities and Investments Commission
Level 7, 120 Collins Street
Melbourne VIC 3000
Email:

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