



Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID736/2025

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

AUSTRALIAN UNITY FUNDS MANAGEMENT LIMITED (ACN 071 497 115)

Defendant

ORDER

JUDGE: Justice Moshinsky

DATE OF ORDER: 23 December 2025

WHERE MADE: Melbourne

THE COURT NOTES THAT

In these declarations and orders:

Contravention Period means the period between 5 October 2021 and 5 October 2023.

Fund means the Australian Unity Select Income Fund (ARSN: 091 886 789).

Fund TMDs means the target market determinations that Australian Unity Funds Management Limited made for the Fund and published on 5 October 2021, 21 December 2022 and 24 May 2023.

Red-flag investors means the 144 investors referred to in paragraph 22 of the Statement of Agreed Facts dated 30 September 2025, being the subset of the 239 investors who were issued interests in the Fund in circumstances where their Questionnaires were not reviewed who provided at least one response that indicated they were not in the target market for the Fund.

THE COURT DECLARES THAT:

1. Pursuant to s 1317E(1) of the *Corporations Act 2001* (Cth) (***Corporations Act***), the defendant contravened s 994E(3) of the *Corporations Act* by engaging in retail product distribution conduct during the Contravention Period in circumstances where it 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, by:



- a. on 89 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 whether they were within the target market described in the Fund TMDs; and
- b. on 239 occasions, issuing interests in the Fund to retail clients without reviewing submitted questionnaires that had been completed by them to determine whether they were within the target market described in the Fund TMDs.

THE COURT ORDERS THAT:

2. Pursuant to s 1317G(1) of the *Corporations Act*, the defendant pay to the Commonwealth of Australia a pecuniary penalty of \$7,125,000 in respect of the contraventions of s 994E(3) of the *Corporations Act* referred to in the declaration set out above.
3. The pecuniary penalty referred to in paragraph 2 be paid within 30 days of the date of this order.
4. Pursuant to s 1101B(1)(a) of the *Corporations Act*, within 30 days of the publication of the Court's reasons for judgment, the defendant publish, at its own expense, a written adverse publicity notice (**Written Notice**) in the terms set out in Annexure A to this order, by:
 - a. for a period of no less than 90 days, maintaining a copy of the Written Notice, in font no less than 10-point, on the Australian Unity Wealth & Capital Markets website available in a prominent area of the following web address: <https://www.australianunity.com.au/wealth> (**webpage**); and
 - b. sending a copy of the Written Notice to the last known email or postal address of each retail client referred to in paragraph 1(a) of the declaration above and the red-flag investors.
5. The defendant pay the plaintiff's costs of the proceeding, as agreed or assessed.

Date orders authenticated: 23 December 2025


Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



ANNEXURE A: WRITTEN NOTICE

The Written Notice shall contain the following text:

Adverse Publicity Notice

Ordered by the Federal Court of Australia

The Federal Court of Australia has ordered Australian Unity Funds Management Limited (AUFM) to publish this adverse publicity notice.

On 23 December 2025, Justice Moshinsky of the Federal Court of Australia declared that Australian Unity Funds Management Limited (AUFM) contravened s 994E(3) of the *Corporations Act 2001* (Cth) and ordered AUFM to pay a pecuniary penalty of \$7,125,000.

Overview of the contravening conduct

Between 5 October 2021 and 5 October 2023 (the **Contravention Period**), AUFM provided retail clients with an opportunity to invest in AUFM's "Australian Unity Select Income Fund" (Fund).

During the Contravention Period, AUFM was required to prepare target market determinations (TMDs) for the Fund. The TMDs had to, among other things: (1) describe the class of retail clients that comprised the target market for the Fund, (2) specify distribution conditions such that it would be likely that a retail client (to whom an interest in the Fund was issued) was within the Fund's target market; and (3) take reasonable steps to ensure its conduct was consistent with its TMDs.

During the Contravention Period, AUFM failed to comply with s 994E(3)(d) of the *Corporations Act*, by:

- (i) on 89 occasions during the Contravention Period, issuing interests in the Fund to retail clients who had not been required to, and did not, submit a questionnaire to determine whether the retail client was within the target market described in the Fund TMD; and



- (ii) on 239 occasions during the Contravention Period, issuing interests in the Fund to retail clients without reviewing their submitted questionnaires to determine whether the retail client was in the target market described in the Fund TMD.

AUFM's response

AUFM co-operated with ASIC in its investigation, and AUFM agreed that it contravened s 994E(3) of the *Corporations Act* when it failed to take reasonable steps to ensure that its issuing of interests in the Fund to retail clients was undertaken consistently with the Fund TMDs. AUFM will establish a program to remediate impacted customers, who will be contacted separately in due course.

Further information

For further information about AUFM's conduct, see the following links:

- Statement of agreed facts [\[hyperlink\]](#);
- Justice Moshinsky's judgment on penalty [\[hyperlink\]](#); and
- ASIC's media release [\[hyperlink\]](#).