

## ASX Disciplinary Matter

The Chief Compliance Officer (“CCO”) of ASX Compliance Pty Limited (“ASX”) has determined that Société Générale Securities Australia Pty Limited (“SGSAPL”) did not comply with ASX Clear (Futures) Operating Rule (“ASX CFR”) 45.1 by failing to deposit with ASX Clear (Futures) (by way of Intra Day Margin) amounts owing as a result of the revaluation of Open Contracts held by it (the “Contravention”).

The CCO imposed a fine of \$80,000 (plus GST) for the Contravention.

The circumstances of this matter are as follows:

### Background

On 12 September 2016 at 11.45am, ASX issued SGSAPL a call by email for Intra Day Margin on its Client account for the amount of AUD 82,889,980.00 requiring payment within 1 hour of receipt of notice pursuant to ASX CFR 45.1. The payment was required to be made via Austraclear by SGSAPL “matching” ASX’s message and SGSAPL’s participating bank settling the obligation.

At 12.06pm that day SGSAPL “matched” the ASX message. At around 12.20pm, ASX Post Trade Operations noted that SGSAPL’s payment obligation had not been settled and telephoned SGSAPL to advise it that the payment was due by 12.45pm.

Between 12.20pm and 12.38pm, SGSAPL contacted the ASX Enterprise Risk Management team to confirm that the exposures communicated in the Intra Day Margin call email were correct, which was confirmed. At 12.38pm, ASX Post Trade Operations observed that SGSAPL’s payment obligation had not been settled and telephoned SGSAPL to further remind it that payment was due at 12.45pm. At 12.50pm, SGSAPL contacted ASX Post Trade Operations to advise that it was still trying to contact its participating bank to arrange for the payment to be settled in Austraclear. At 1.06pm, the Intra Day Margin payment for the client account was settled by SGSAPL’s participating bank.

The Contravention was caused by SGSAPL’s Derivative Operations officer responsible for facilitating the payment including the incorrect time in the payment instructions to the participating bank, as well as what SGSAPL described as “internal approval issues” at the participating bank leading to the instructions not being immediately processed. The relevant email instructed the payment to be “settled prior to 1:30pm”.

In determining penalty, the CCO, among other things, took into account the following matters:

- (a) The Contravention could have had a serious impact on the integrity and reputation of the clearing facility operated by ASX. As a central counterparty subject to the Financial Stability Standards (“FSS”), ASX has obligations to cover its credit exposures to its participants for all products and manage its exposure to potential losses arising in the event of a participant default. It does so by maintaining a margin methodology and collecting several types of margins from its participants that are proportionate to the scale and nature of participants’ activities. The ability of ASX to meet its FSS requirements is dependent on participants meeting their margin obligations to the ASX.

The objective of ASX’s Intra Day Margin regime is to provide additional cover during periods of extreme market volatility. It seeks to mitigate the risk that, in more extreme market conditions than are contemplated by a regular initial margin, a participant with a large exposure may deplete or even exhaust the default fund maintained by ASX.

- (b) It is in recognition of the fact that the payment of margin to ASX is a fundamental risk control that the failure to so pay by the prescribed time constitutes an event of default under the ASX CFR.

- (c) The margin call that led to the Contravention occurred in close proximity to the expiry of a number of futures contracts and therefore involved a greater risk than other trading periods.
- (d) SGSAPL has contravened rules relating to margin calls in similar circumstances on three previous occasions in 2012, 2015 and 2016, for which it received “no-escalation” decisions from ASX.
- (e) ASX expects Participants to have sufficiently robust processes to meet Intra Day Margin obligations which are commensurate to the risk to the clearing facility posed by a failure to comply with these obligations. Intra Day Margin payments are time critical processes and the Contravention suggests that SGSAPL did not have appropriate controls and monitoring processes to ensure that settlement of Intra Day Margin obligations occurred in accordance with the ASX CFR.
- (f) Previous disciplinary decisions.
- (g) In ASX’s view, the employees involved in the Contravention were not subject to an appropriate level of training or supervision and the senior managers involved in the Contravention did not act with sufficient promptness, given the seriousness of the matter.
- (h) SGSAPL or its clients did not receive any advantage from the Contravention.
- (i) The Contravention was unintentional and did not involve unconscionable conduct or the taking of unfair advantage of clients or counterparties.
- (j) SGSAPL promptly and fully responded to ASX’s enquiries and it has since then taken steps to reinforce their controls and monitoring processes.

**Sanction Guidelines**

The CCO determined that given the circumstances in this matter a fine of \$80,000 (plus GST) was an appropriate sanction.

The CCO is of the opinion that this sanction will act as a deterrent and appropriately serves the interests of ASX and its Participants.