

ASX Disciplinary Matter – UBS Securities Australia Limited

ASX Limited's Chief Compliance Officer ("CCO") has determined that UBS Securities Australia Limited ("UBS") did not comply with ASX Operating Rule ("ASX OR") 3500 by failing to promptly report a Special Crossing on two occasions in circumstances which also indicated that UBS did not have adequate resources and processes to comply with its obligations as a participant (the "Contraventions"). The CCO imposed a fine of \$30,000 (plus GST) for the Contraventions.

Defined terms have the meaning provided in the ASX OR, unless provided.

The circumstances of this matter are as follows:

At 10:37 am on 23 August 2016, UBS executed a transaction in two option series by way of a Special Crossing. At 11:05 am that day, UBS reported the transaction under ASX OR 3500 ("Event A").

At 10:18 am on 23 December 2016, UBS executed a transaction in an option series by way of a Special Crossing. At 11:54 that day, UBS reported the transaction under ASX OR 3500 ("Event B").

UBS cited heightened workflow and constraints on resourcing and capacity as affecting the timeliness of its reporting in both Events A and B.

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

- (a) ASX OR 3500 and its procedure require Trading Participants to report Crossings and Special Crossings "promptly". This reflects the long-recognised interest in keeping the market informed of off-market transactions. Such information is relevant to, among other things, pricing models used by traders to determine an option's value.
- (b) ASX understands that participants can experience unexpected periods of peak workflow. Nevertheless, the obligation in ASX OR 3500 to report 'promptly' implies that the action must be prioritised and not simply done when the participant's circumstances allow. Further, participants are expected to have appropriate resources and processes to perform to this standard.
- (c) In the case of Event B, the effluxion of around 90 minutes in the reporting of a Special Crossing is well outside the meaning of "prompt" for the purposes of the rule.
- (d) In the case of Event A, ASX was not satisfied that the circumstances raised by UBS as affecting its team at the relevant time justified a delay of nearly half an hour in reporting.
- (e) ASX accepts UBS's evidence that the Contraventions were not intentional or caused by an inappropriate attitude to compliance with the ASX OR.
- (f) UBS has undertaken appropriate steps in remediation, including annual training and increased human resourcing.
- (g) UBS has not been the subject of formal enforcement proceedings with respect to ASX's operating rules since 2009.
- (h) There is no evidence of a client, counterparty or other participant suffering loss as a result of the Contraventions.
- (i) The Contraventions were, in the context of UBS's options business, rare.
- (j) Previous ASX enforcement decisions, including those of the former ASX Disciplinary Tribunal, with respect to failures to report crossings across a number of financial products.

- (k) The 'totality principle', as explained in Annexure A to the *ASX Enforcement and Appeals Rulebook*.

Sanction Guidelines

The CCO determined that, given the circumstances in this matter, a fine of \$30,000 (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.