

## **ASX Disciplinary Matter – Deutsche Securities Australia Limited**

ASX Limited's Chief Compliance Officer (“**CCO**”) has determined that Deutsche Securities Australia Limited (“**DSAL**”) did not comply with ASX Operating Rule (“**ASX OR**”) 3500, by failing to promptly report a Special Crossing (the “**Contravention**”). The CCO imposed a fine of \$50,000 (plus GST) for the Contravention.

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

The circumstances of this matter are as follows:

On 3 March 2016, in a series of trades concluding at around 13:03, DSAL purchased options in a specific series on behalf of a client. The seller was a related party of DSAL, so the trades occurred by way of Special Crossing.

The related party was notified at about 13:25 of the conclusion of the transaction.

At 15:16, a representative of DSAL contacted its counterpart at the related party and asked if the transaction could be put “through the market”, which received the response “yes please”.

At 15:22, DSAL reported the special crossing to ASX under ASX OR 3500.

DSAL said the report was delayed by over two hours because of an oversight arising from the fact that its trader was the only person available on the desk to respond to queries and report transactions.

Between 13:03 and 15:22, the related party executed 14 additional trades in options referenced to the same underlying issuer via DSAL. DSAL advised that the reason for the related party executing these trades was to “manage existing positions and trades.”

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) The effluxion of over two hours in the reporting of a special crossing is well outside the meaning of “prompt” for the purposes of the rule.
- (c) ASX has not made a formal determination that the breach was intentional. However, the course of trades between the completion of the Special Crossing and the reporting of the transaction, as well as the communication between desks, could reasonably give the appearance to other market participants that the breach was deliberate. This conclusion is supported by the fact that the conduct in question was the subject of a formal complaint by another participant. The reputation of ASX's market is integral to the important role it plays in Australia's financial markets, such that any conduct that could undermine the investing community's confidence in it will be met with an appropriate penalty.
- (d) Decisions of the ASX Disciplinary Tribunal with respect to failures to report special crossings across a number of financial products.
- (e) The contravention was an isolated incident.

- (f) DSAL has not been the subject of formal enforcement proceedings with respect to an obligation under the ASX operating rules since 2009. However, ASX has issued 10 “no escalation” decisions to DSAL since 2014.

**Sanction Guidelines**

The CCO determined that given the circumstances in this matter a fine of \$50,000 (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.