

ASX Disciplinary Matter – J.P. Morgan Securities Australia Limited

ASX Limited's Chief Compliance Officer ('CCO') has determined that J.P. Morgan Securities Australia Limited ('JPMSAL') did not comply with:

- ASX Operating Rule ('ASX OR') [3501], requiring a participant to provide to ASX a short sale report setting out the information required in the procedures; and
- ASX OR [6704], requiring information given to ASX to be complete, accurate and not misleading (together, the 'Contraventions').

The CCO imposed a fine of \$40,000 (plus GST) for the Contraventions.

The circumstances of this matter are as follows:

1. In 2015, JPMSAL implemented a system to calculate short sale data for reporting to ASX. The system's intended function was to aggregate short sales executed by JPMSAL for clients and those executed as principal.
2. In July 2018, JPMSAL identified an error in the system's logic which caused trades by JPMSAL affiliate sellers to be included in the end-of-day calculations of trades by JPMSAL as principal.
3. On 27 July 2018, JPMSAL notified ASX that its short sale reporting to ASX had been inaccurate for a little over 2 years.
4. JPMSAL conducted an analysis comparing short sale volumes for 202 securities that were reported to ASX on a sample day compared with the actual short sale volumes that ought to have been reported that day.
5. The error was caused by a change to the system's logic after user acceptance testing was completed and prior to deployment.
6. ASX concluded from the analysis of reported versus actual short sales and from the period for which the error subsisted that the Contraventions were material
7. JPMSAL:
 - a. rectified the error with a configuration change which was tested on 19 July and released into production on 20 July 2018; and
 - b. implemented further remedial changes which, following validation by internal stakeholder teams, gave ASX reason to conclude that JPMSAL would comply with the relevant requirements.

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

- i. ASX is required to collate the volumes of short sales in each listed security for every trading day. This information is collected from each trading participant and the aggregated volumes are published by ASX. The short sales volumes that are published by ASX inform the market of the total number of short sales in each security as well as the proportion of trades in the security that are short sales. This information assists investors and companies in explaining share price movements and making investment decisions. Accordingly, any errors in the reporting of short sale volumes has the potential to negatively impact ASX's reputation.
- ii. The Australian Securities and Investments Commission ('ASIC') also uses short-selling data to investigate potential market manipulation and otherwise regulate the market. If ASIC does not

receive accurate and reliable information in this regard it cannot properly discharge its duty as a regulator of financial markets.

- iii. Although user acceptance testing was conducted, JPMSAL did not carry out further testing following the change in logic that caused the Contraventions.
- iv. Had JPMSAL periodically reviewed the system's accuracy and effectiveness in facilitating compliance with the reporting obligations then the error may have subsisted for less time and the Contraventions had correspondingly less impact.
- v. JPMSAL:
 - undertook immediate and efficient remediation of the breach once it was detected and that the breaches were inadvertent and unintentional;
 - promptly reported the error to ASX upon its discovery and assisted with its investigation;
 - made an early decision not to contest liability for the Contraventions;
 - has a good history of complying with ASX's operating rules; and
 - did not derive a financial benefit from the breach.

Sanction Guidelines

The CCO determined that, given the circumstances in this matter, a fine of \$40,000 (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.