

Notice reference number: 1008.15.08

Notice date: 31/08/2015

What's this about?

Effective date: 31/08/2015

-
- | | | | | | | |
|---|--|--|---|--|-------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> ASX Trade | <input checked="" type="checkbox"/> ASX 24 | <input type="checkbox"/> ASX TECH | | | | |
| <input checked="" type="checkbox"/> Trading | <input checked="" type="checkbox"/> Clearing | <input checked="" type="checkbox"/> Settlement | <input type="checkbox"/> ALC | <input type="checkbox"/> ASX NET | | |
| <input type="checkbox"/> Operations | <input type="checkbox"/> Technology | <input type="checkbox"/> Market Data | <input checked="" type="checkbox"/> Rules | <input checked="" type="checkbox"/> Compliance | <input type="checkbox"/> Risk | <input type="checkbox"/> Other |
-

ASX Compliance Quarterly Enforcement Circular for the quarter ended 31 August 2015

Please refer to the attached document.

What do I need to do and by when?

For your information only.

Need more information?

Issued by

Ben Wachter
Senior Compliance Counsel

Contact Details

(02) 9227 0671

Disclaimer

ASX Compliance Enforcement Activity

Under the Corporations Act, as a licensed operator of financial markets, ASX is obliged to have adequate arrangements for monitoring and enforcing compliance with the operating rules of those markets. It is also obliged, as a licensed operator of clearing and settlement facilities, to have adequate arrangements for supervising those facilities and for enforcing compliance with their operating rules.

The purpose of this circular is to notify participants in those markets and facilities of some of the enforcement activities recently undertaken by ASX Compliance, so that they are aware of potential areas of concern for ASX and of ASX's enforcement activities in those areas.

This circular covers enforcement activities that were finalised during the 3 month period ended 31 August 2015. Investigations in relation to other enforcement matters are ongoing.

Participants should note the "reducing red tape" Operating Rule amendments that ASX introduced on 15 June 2015 standardising its admission and notification requirements across the ASX and ASX 24 markets and the ASX Clear, ASX Clear (Futures) and ASX Settlement facilities. While technically these changes to admission requirements will have a flow-through effect to the obligation in the Operating Rules for these markets and facilities for participants to continue to comply with applicable admission requirements, at a practical level, ASX does not see this as impacting the way in which it monitors and enforces its Operating Rules. The revised admission requirements still include the requirement for participants to be of high business integrity and to have adequate resources and processes to comply with their obligations under the Operating Rules, which by dint of the obligation of participants to continue to comply with applicable admission requirements, become continuing obligations under the Operating Rules.

Failure to apply holder record locks and/or establish new holder records within 1 business day of receiving a notice of death

ASX issued an enforcement notice and imposed a monetary penalty of \$50,000 (plus GST) against an ASX Settlement participant for contraventions of:

- ASX Settlement Operating Rule 8.15.8 in that on at least 231 occasions between about 30 December 2013 and 10 March 2015, as controlling participant, it failed, within 1 business day of receiving a notice of death of the relevant holder, to transmit a valid originating message requesting ASX Settlement to apply a holder record lock to all holdings under that holder record; and
- ASX Settlement Operating Rule 8.15.9 in that on at least 7 occasions between about 23 June 2014 and 20 February 2015, as controlling participant for joint holdings under a holder record, it failed, within 1 business day of receiving a notice of death of one of the relevant holders, to establish a new holder record in respect of the surviving participant sponsored holder and transfer the holdings into new holdings under the new holder record.

For further details, please refer to the ASX circular at:

<http://www.asx.com.au/communications/notices/2015/0982.15.08.pdf>

CHES holdings maintained on behalf of another person where a sponsorship agreement was not in place

ASX issued a formal warning letter to a participant for apparent contraventions of ASX Settlement Operating Rules 6.3.3(b) and 7.1.2. The participant self-reported that between September 2000 and May 2015 it controlled CHES holdings on behalf of another person where a sponsorship agreement was not in place. The participant had failed to follow its standard internal account closures procedure for bulk account closures resulting in 5,280 HINs remaining active despite the receipt and processing of account closure requests for the clients' trading accounts (which effectively terminated the associated sponsorship agreements).

During the relevant period, of the 5,280 HINs that remained active:



- 55 HINs received CHESSE holdings through dividend reinvestment plans or other corporate actions subsequent to the account closure; and
- 48 of the 55 affected accounts retained securities after the account closure form was received due to an incomplete closure.

Following its identification of the apparent contraventions in May 2015, the participant initiated a process to transfer the relevant securities from the affected accounts, cancel the active HINs and write to affected clients. The participant confirmed this process was completed on 2 July 2015. The participant has reviewed and updated its account closure procedures.

Failure to have mechanisms for placing, amending, and cancelling orders and for having adequate arrangements to determine which orders correspond to a trading message on the trading platform

ASX issued a formal warning letter to a participant for apparent contraventions of:

- ASX24 Operating Rule Procedure 1000(f) for failing to have mechanisms in place for amending and cancelling orders on the trading platform and thereby the requirement under ASX24 Operating Rule 1400(a) that a trading participant must at all times continue to satisfy the applicable admission requirements (including ASX24 Operating Rule 1000(f));
- ASX24 Operating Rule Procedure 1401(b), and thereby ASX24 Operating Rule 1401(b), for failing to have arrangements to determine the order that corresponds to a trading message; and
- ASX24 Operating Rule Procedure 3000, and thereby ASX24 Operating Rule 3000, for failing to ensure the accuracy of details, the integrity and bona fides of all trading messages that are submitted.

On 5 March 2015, the participant implemented its new trading platform. Initially the participant released a limited number of small volume client orders into the market. On 6 March 2015 the participant realised it was unable to cancel orders which had been previously amended or orders with a partial fill. The participant requested ASX to cancel two orders. The participant escalated the issue internally and it was determined that an older version of the system's software had been installed rather than the tested version, which resulted in a number of defects. The participant undertook testing over the weekend of the 7-8 March 2015 to ensure the issues identified were rectified and, once confirmed, it authorised the system for client usage on the 9 March 2015.

The participant next contacted ASX on the morning of 13 March 2015 to ascertain the status of a client's order as it was not reflected in the participant's systems. It appears that the system had been configured with a reset mechanism to cancel all open orders valid for the session (except good-till-cancelled orders) at 3:55am and then re-submit the valid orders at around 4:00am (known as the reset). The software was not able to correctly interpret the purge order message from the ASX24 trading platform and, when it reset, it entered invalid client orders into the market.

No client of the participant suffered any loss. The participant confirmed that this particular system will not be connected to the ASX24 trading platform in the foreseeable future.

Failure to discharge net clearing obligations for derivatives CCP contracts in accordance with the prescribed times

ASX issued a formal warning letter to a participant for an apparent contravention of ASX Clear Operating Rule 12.17.1 for failing to pay the required exchange traded option ("ETO") margin by the prescribed time of 10:30am on 15 April 2015. The apparent contravention arose due to a delay in the participant's payment provider releasing the funds in the Reserve Bank Information and Transfer System (RITS). This resulted in a delay in the settlement of an ETO margin payment of \$11,110.73 on 15 April 2015 until 10.32am, 2 minutes after the prescribed deadline of 10.30am.

The participant attempted to contact its relationship manager at its payment provider, however, this was only after it was contacted by ASX Operations at 10.10am. When still not settled at 10.23am, ASX Operations contacted the payment provider's RITS team directly to escalate and resolve the matter.



This matter follows on from a previous apparent breach by this participant on 4 November 2014, where it failed to settle the ETO margin payment of AUD \$1,360.29 until 10.34am, 4 minutes after the prescribed time of 10.30am.

The requirement for participants to discharge their payment obligations is fundamental to the efficient operation of the ASX Clear facility. However, in this instance, ASX recognised that the participant had taken the following actions to prevent a recurrence of the events of 15 April 2015, including:

- amended its procedures to reflect that payments must be in a “settled” state in Austraclear before 10:00am;
- obtained the contact details of the payment provider’s RITS team for those instances when the account relationship manager was unavailable; and
- where payment was not in a “settled” state by 10:00am, implemented a requirement to escalate the matter to the Chief Operating Officer and/or General Manager,

and ASX therefore determined not to take any further enforcement action.

