

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 30 November 2016. Investigations in relation to other enforcement matters are ongoing.

Breach of accumulation account and settlement account rules

ASX imposed a penalty of \$50,000 (plus GST) on Share Investing Limited (“**ANZSI**”) for two contraventions of the ASX Settlement Operating Rules. One contravention, for which ANZSI received a penalty of \$45,000 (plus GST), related to ANZSI's failure to reconcile the holdings in its accumulation account in accordance with ASX Settlement Operating Rule 6.3A.3 for a period in excess of 16 months. The second contravention, for which ANZSI received a penalty of \$5,000 (plus GST), related to ANZSI having held the same financial products in a settlement or accumulation holding for greater than the permitted time on four individual occasions, in breach of ASX Settlement Operating Rule 6.3.5. ANZSI had previously received no-escalation decisions from ASX with respect to similar contraventions.

For further details please refer to the following ASX circular:

http://www.asx.com.au/communications/notices/2016/20160410_ANZSI_Circular_Final.pdf

Breaches of rules relating to submissions of daily Beneficial Ownership Report

ASX issued a formal warning letter to a participant for breaching its requirement to submit a daily beneficial ownership report (“DBOR”) pursuant to ASX24 Operating Rule 3500. The participant had received a waiver of the rule allowing it to submit positions held in the account of a nominated offshore related body corporate at the omnibus level by 8am on each business day (the “Day One DBOR”), and an additional report containing a breakdown of the positions in the omnibus account by 8.00am on the day after that submission (the “Day Two DBOR”).

The breaches were self-reported by the participant and related to:

- the participant's failure to include details of New Zealand Dollar based contracts in the Day Two DBORs submitted from 2003 to 18 April 2016; and
- the participant's failure to match down intra-day trades for a particular client in the Day One DBORs submitted between 2007 and 22 March 2016,

in breach of ASX 24 Operating Rules 3500, 6704 and 1000(d).

ASX has required the participant, among other things, to review its resources and processes relating to position management and reporting requirements for ASX24 futures and report on the findings and proposed remediation, provide training to key personnel in respect of the relevant obligations, and perform independent quarterly compliance reviews.

ASX has also issued a formal warning letter to another participant for three breaches of ASX24 Operating Rule 3500.1(a) for having failed to provide a DBOR in a machine readable form approved by ASX. The breaches occurred between 5 August 2016 and 24 August 2016 and arose due to a change in the software deployed by the participant, which caused errors in encrypting its DBOR files. The software had been rolled out to holiday cover staff who were less familiar with the DBOR process and were not able to quickly identify the problems with the encryption process to meet the submission deadline of 8am.



ASX required the participant to review its change management procedures around updating system software to ensure that all of the systems and processes related to its ASX obligations are considered.

The participant has updated its software and undertaken to send test files to ASX 24 from any new users before they are responsible for DBOR submission in the production environment. The participant has also improved its training for new users including internal escalation processes.

Breaches of ASX Settlement Operating Rules relating to CHES interface obligations and organisational requirements for business continuity and disaster recovery

ASX has issued a formal warning letter to a participant for breaches of the requirement in ASX Settlement Operating Rule 16.1.1(a) to establish and maintain an interface with CHES in accordance with the External Interface Specification and for not having business continuity and disaster recovery arrangements adequate to ensure recovery of usual business operations within a recovery time objective of 4 hours, as required by ASX Settlement Operating Rules 4.18.1 and 6.21.1 and Guidance Note 10 *Business Continuity and Disaster Recovery*.

The participant updated its incident recovery plan to ensure that the recovery of incidents relating to the technology network layer associated supporting CHES was aligned with that set for CHES. ASX also required the participant to review and update its incident management plans to ensure they meet key requirements 4.6 and 4.10 in Guidance Note 10, which require an incident management plan to “*include a communications plan which can be applied to each disruption scenario detailing what should be communicated, when it should be communicated and to whom including staff, clients, ASX, ASIC and other regulators...*” and for participants to notify ASX of “*any disruption that causes the participant to engage its [business continuity plan] for its ASX Settlement operations, promptly after it becomes aware of the disruption.*”

