

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 May 2017. Investigations in relation to other enforcement matters are ongoing.

Enforcement proceedings

ASX finalised 2 enforcement proceedings in the period.

The ASX Chief Compliance Officer (CCO) imposed a penalty of \$80,000 (plus GST) on Société Générale Securities Australia Pty Limited for a breach of ASX Clear (Futures) Operating Rule 45.1 following its failure to pay by the scheduled time a substantial intra-day margin amount.

For further details please refer to the following ASX circular:

http://www.asx.com.au/communications/notices/2017/20170428_societe_generale_securities.pdf

The CCO has also imposed a penalty of \$15,000 (plus GST) on OpenMarkets Australia Limited for failing to pay amounts owing as a result of the calculation, set off and notification of net payment amounts by ASX Clear, in contravention of ASX Clear Operating Rule 12.17.1.

For further details please refer to the following ASX circular:

http://www.asx.com.au/communications/notices/2017/20170515_OpenMarkets_Australia_Limited_Circular.pdf

Daily Beneficial Ownership Reports

ASX issued formal warning letters to two participants for failing to submit correct beneficial holder details in daily beneficial ownership reports ("DBOR") in breach of former ASX 24 Operating Rule 3500 and current operating rule 4840.

The first participant failed to provide the beneficial holder details for the open positions of a specific individual account between 7 October 2013 and 7 August 2016. ASX has required the participant to implement measures to ensure that its processes relating to its daily position reporting are independently reviewed on a periodic basis to minimise the risk of similar breaches in the future.

The second participant contravened the rule over two separate periods between April 2011 and March 2017 by failing to provide all beneficial holder details as required, and by failing to include required content for beneficial holders of certain open positions. ASX has required the participant to implement a control in its daily position management process to confirm that its back-office system correctly reflects the contract expiry information provided by ASX.

Failure to close out back-to-back open positions

ASX has issued a formal warning letter to a participant for failing to close out back-to-back open positions in an individual account, in breach of its obligations under ASX Clear (Futures) Operating Rule 46.5 and the associated procedure.



The participant has been required to implement measures to ensure that its processes for daily close-out of obligations are independently reviewed on a periodic basis to minimise the risk of similar breaches in the future.

Client money requirements

ASX has issued a formal warning letter to a participant following a review of the participant's trust account reconciliation processes. The review identified systemic issues relating to the participant's control and governance processes, particularly its breach reporting and escalation processes. The participant has changed its processes and engaged with its payment provider to address bank processing issues. In addition, ASX has required the participant to conduct an internal audit review of its compliance framework and an independent compliance review of its trust account reconciliation processes.

Inadvertent disclosure of confidential information

ASX has issued a formal warning letter to a participant for the inadvertent disclosure of confidential information, in breach of ASX Settlement Operating Rule 8.11.1. The disclosure arose following a reconfiguration to the participant's derivatives back-office clearing system which resulted in confidential information being disclosed to a recipient over three days. The recipient of the information reported the disclosure to the participant.

Risk based capital requirements

ASX has issued formal warning letters to two participants regarding breaches of ASX Clear Operating Rule 5.1.1.

The first related to a failure to prepare returns in accordance with Schedule 1, Rule S1.2.10(1)(b) on eight separate occasions due to human error.

The second related to a breach of Schedule 1, Annexure 3, Part 4, clause 23(a) due to the participant's failure to seek the prior written approval of ASX Clear to calculate its position risk requirement using its own internal risk measurement system.

Transfer obligations to facilitate settlement

ASX has issued a formal warning letter to a participant regarding breaches of ASX Settlement Operating Rules 6.3B.2 and 6.3B.5 for failure to cause the client trust receivable amount to be deposited to a participant's trust account concurrent with batch settlement.

The event occurred following a vendor upgrade to the participant's back-office system which caused its accumulation account to show negative balances for sponsored accounts. As a result, the participant was unable to transmit a valid single entry batch message as required by rule 6.3B.2 and, instead, conducted a manual transfer of the affected products. The manual movement failed to trigger a notification to the participant's payment provider of the client trust receivable amount to be deposited to the participant's trust account, as required by rule 6.3B.5. Consequently, the participant manually calculated the client trust receivable amount and instructed its payment provider to manually transfer the amount to its trust account, which occurred some hours after the single entry batch message. The participant has rolled back the system upgrade and is working with the vendor to prevent a reoccurrence.

