

## **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 28 February 2018. Investigations in relation to other enforcement matters are ongoing.

### **Enforcement proceedings**

ASX finalised two enforcement proceedings in the period.

The ASX Chief Compliance Officer (“**CCO**”) imposed a penalty of \$50,000 (plus GST) on Credit Suisse AG (Sydney Branch) for a breach of ASX Clear (Futures) Operating Rule 46.5 and ASX 24 Operating Rule 6704 following its failure to comply with the proper procedure for closing out back-to-back open positions, resulting in it overstating its positions in its daily beneficial ownership reports.

The CCO imposed a penalty of \$30,000 (plus GST) on Credit Suisse Equities (Australia) Limited for a breach of ASX Settlement Operating Rules 4.18.1 (the requirement to have adequate resources and processes to comply with its obligations as a participant) and 4.7.1(b) (the requirement to have the settlement and recording systems necessary for its existing and anticipated obligations) arising from a migration it conducted of its core equity confirmation and settlement system from one third party product to another.

Further details regarding these two matters are available in the following ASX circular:

[https://www.asx.com.au/communications/notices/2017/20170712\\_CreditSuisseAG\\_and\\_CreditSuisseEquities\\_\(Australia\)\\_Limited\\_Circular.pdf](https://www.asx.com.au/communications/notices/2017/20170712_CreditSuisseAG_and_CreditSuisseEquities_(Australia)_Limited_Circular.pdf)

### **Failure to provide mandatory disclosure documents to clients**

ASX has issued a warning letter to two participants involved in the migration of holdings from one controlling participant to another.

Some 2,500 clients did not receive the required disclosures associated with the migration due to third party agent contacts being recorded on the affected client accounts.

The outgoing participant was found to have failed to provide a Participant Change Notice to affected clients within the prescribed time, representing a breach of its obligations under ASX Clear Operating Rule 7.1.5(a) and ASX Settlement Operating Rule 7.1.10(a).

The incoming participant was found to have failed to provide notice to the affected clients that it consented to act as their participant / controlling participant, such that the novation of the Client Agreements / Sponsorship Agreements did not take effect, in breach of ASX Clear Operating Rule 7.1.5(f) and ASX Settlement Operating Rules 7.1.10(d) and 6.3.2.

