

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 2019. Investigations in relation to other enforcement matters are ongoing.

Compliance with reconciliation of client money requirements

ASX issued a warning letter to a participant relating to the following breaches of ASX Clear Operating Rule (“**ASX CR**”) 4.23 occurring between March and October 2018:

- For part of the period, reconciliations performed under ASX CR 4.23.6 were not ‘trust reconciliations’ within the meaning of the rules and did not follow the form set out in Guidance Note 12 *Trust and Client Segregated Accounts*.
- On 14 business days in the period, the participant reported a deficiency in its trust account, in breach of ASX CR 4.23.2.

The participant voluntarily engaged an independent expert to review and comment on, among other things, the participant's procedures (including training materials) relating to ASX client money obligations, trust reconciliations under ASX CR 4.23.6, and deficiencies reported by the participant in the relevant period.

Compliance with obligations associated with novating client agreements on change of participant

ASX issued a warning letter to a participant relating to breaches of the requirement under the ASX CR to provide disclosure documents to clients prior to the novation of derivatives CCP contracts to the participant from another participant.

As a consequence of the participant's failure to provide the required disclosure documents to the relevant clients, ASX considered that the participant did not have a valid client agreements in place prior to agreeing to clear derivatives market transactions for the affected clients, as required by ASX CR 7.1.1.

Upon becoming aware of the oversight, the participant took immediate steps to notify all affected clients and to ensure a valid client agreement was in place prior to accepting further instructions to clear derivative market transactions on their behalf.

Failure to meet the prescribed times for paying margin to ASX Clear (Futures)

ASX has issued a warning letter to a participant in relation to breaches of ASX Clear (Futures) Operating Rules (“**ASX CFR**”) 43.1 and 44.4.

The breaches arose out of the participant's failure to meet the prescribed times for the payment of Initial Margin and Daily Settlement Amounts under the ASX CFR on a particular day by approximately 25 minutes. The breach was caused by a failure by the participant's bank to make timely payment. Nevertheless, the primary obligor under the ASX CFR is the participant itself, which is expected to have appropriate service-level agreements and other measures in place to ensure the performance by its agents of key obligations under the rules.

The participant has provided further training to staff in relation to margin call procedures and those procedures have been reviewed.



Compliance with capital requirements

ASX issued a warning letter to a participant in relation to a number of breaches of ASX CR 5.1.1 between May and August 2018.

The participant failed to ensure that the capital liquidity returns it submitted for May, June, July and August 2018 were in accordance with ASX CR Schedule 1, or accurately reflected its accounts, financial position and business activities as appropriate.

The participant has taken immediate action to correct the errors and similar errors have not been identified in subsequent returns.

