

## **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 29 February 2020. Investigations in relation to other enforcement matters are ongoing.

### **Enforcement decisions**

ASX finalised two enforcement proceedings in the period:

- ASX's Chief Compliance Officer (the '**CCO**') imposed a penalty of \$50,000 plus GST on Goldman Sachs Australia Pty Ltd for breaches of the ASX Clear (Futures) Operating Rules ('**ASX CFR**') relating to compliance with the obligation to notify ASX of positions which it wished to remain open under ASX CFR 46.

Further details are available in the following ASX circular:

<https://www.asxonline.com/content/dam/asxonline/public/notices/2019/Dec/20191216%20-%20goldman%20sachs%20australia%20pty%20ld%20-%20disciplinary%20circular.pdf>

- The CCO imposed a penalty of \$40,000 plus GST on J.P. Morgan Securities Australia Limited for breaches of short sale-reporting obligations, and the requirement that information given to ASX be complete, accurate and not misleading, in the ASX Operating Rules.

Further details are available in the following ASX circular:

<https://www.asxonline.com/content/dam/asxonline/public/notices/2019/Dec/20191227%20-%20jpsal%20disciplinary%20circular.pdf>

### **Late payment of margin**

ASX issued a warning letter to a participant in relation to a delay of 28 minutes in settling a cash market margin ('**CMM**') in breach of its obligation under ASX Clear Operating Rule ('**ASX CR**') 12.17.5. The breach was caused in part by the participant's systems for calculating CMM obligations failing to cater for a zero-value security, resulting in its CMM forecast being inaccurate. The participant remediated the breach by allocating additional cash to the relevant account for unusual spikes in margin amounts and updating the functionality of its CMM calculation system to address the issues experienced. ASX also required the participant to:

- perform an annual review of that system to ensure that its design is up-to-date, having regard to the nature and scale of its business activities;
- provide training to its employees responsible for monitoring and forecasting CMM obligations; and
- document its processes for intraday monitoring of its CMM obligations.

### **Trust account deficiency**

ASX issued a warning letter to a participant in relation to a breach of its obligations under ASX CR 4.23.2 to hold money in relation to transactions to which Division 2 of Part 7.8 of the *Corporations Act 2001* (Cth) applies in trust. The participant had self-reported that, on the day in question, its client moneys trust account was in deficit by \$1,402,600.01. This arose from the participant processing a duplicate payment and not receiving



moneys from its transactional banker as it had exceeded its intra-day debit limit with the bank. In remediation, the participant increased its intra-day debit limit, and was reminded by ASX of the necessity to have processes in place to monitor the usage of this limit and to identify duplicate payments.

