

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 period ending 30 June 2021. Investigations in relation to other enforcement matters are ongoing.

Daily beneficial ownership reporting

Matter 1

ASX has issued a warning letter to a participant in relation to apparent breaches of ASX 24 Operating Rule ('**ASX 24 OR**') 4840 and its procedure. The incidents involved failures to comply with the requirement to provide the relevant details of the underlying beneficial holder in relation to certain accounts, as well as discrepancies in the number of open positions reported in relation to a single client account over a short period following an error in the account set-up which excluded it from the daily beneficial ownership report ('**DBOR**').

The participant corrected the missing beneficial ownership information and reviewed the data feeds into its report generation system. It also implemented a series of steps designed to remove the account set-up error in the final breach and assurance checks, including alerts as to discrepancies between trades and the flow-on account matrices.

Matter 2

ASX has also issued a warning letter to a second participant in relation to an apparent breach of ASX 4840 and its procedure in relation to a failure to include a valid username or address for clients of a particular division. The breach was the result of an oversight which was remediated by the participant within a reasonable time.

Matter 3

ASX has also issued a warning letter after a participant identified that, in relation to three client accounts, its DBORs were incorrectly configured to report positions at a net, rather than gross, level, in apparent breach of ASX 24 OR 4840 and its procedure. The participant reviewed all accounts to confirm that no others were affected and performed the necessary updates to its systems to ensure that the three accounts in question were reporting at the correct level.

Holder records

ASX has issued a warning letter to a participant in relation an apparent breach of ASX Settlement Operating Rule ('**ASX SR**') 8.7.3, under which a participant is required to apply a Residency Indicator of "F" where a Foreign Person establishes any new holding of FOR Financial Products. Since ASX SR 8.7.3 was introduced in 2004, the participant had a process in place to collect the residency of the holder, but did not verify its foreign residency status of the holder relative to the FOR Financial products held.

Following detection of the error, the participant promptly reported the matter and undertook a number of steps in remediation, including the introduction of enhanced business rules to run checks on whether the holding of a FOR product has been incorrectly flagged as domestic or foreign, a process to update accounts and holder records as required based on the holder's confirmation, and a 'Day 2 report' reconciliation process to identify all clients that had executed FOR transactions and flag those which suggested that their Residency Indicator on their account may require updating.



Client monies

Matter 1

ASX has issued a warning letter to a participant in relation to apparent breaches of the ASX Clear Operating Rules ('**ASX CR**') around moneys held on trust. The first breach related to a failure by the participant to produce supporting documentation to enable ASX to validate whether each reconciliation was accurate as required by ASX CR 4.23.6, and came to light following an operational readiness review by ASX. ASX was of the opinion that the reconciliations for the sample period in question were not self-explanatory, in that the items listed were not able to be readily identified by reference to the bank statement, items in trust report, or a separate supporting schedule. The second breach was self-reported by the participant in relation to a reconciliation report for a particular day, and involved both the failure to produce the necessary supporting documentation to confirm the accuracy of the items in the report in question, but also did not identify a small deficiency between the amount required and the amount actually held and so could not be said to have been accurately prepared, representing breaches of ASX CR 4.23.2 and 4.23.6.

The participant's response included adopting a new template for trust reconciliations and replicating the manual process to include all supporting documentation with the electronic reconciliation.

Matter 2

ASX has issued a warning letter to a participant in relation to self-reported events where foreign exchange settlement amounts were received from a particular client earlier than as advised by the client's system, and then subsequently transferred to the participant's general account. According to the participant's investigation, this occurred 176 times over a period of 12 years, each of which represents an apparent breach of ASX CR 4.23.2 and 4.23.6(b). ASX was satisfied with the participant's steps in remediation, which involved implementing additional controls to prevent unpermitted withdrawals, and other system enhancements.

Confidentiality obligations

ASX SR 8.11.1 prohibits a Participant from disclosing confidential information unless required by the ASX SR or the law, or with the express consent of the Holder, or of the duly appointed attorney, agent or legal personal representative of that Holder.

ASX issued a warning letter to a participant for an apparent breach of this requirement after the participant identified that information relating to clients managed by one group of financial advisers, including holder identification numbers and client names, had been inadvertently shared with other advisers. Although the root cause was not confirmed, the participant concludes that it probably arose from an error in manually setting up the data feed used by the participant for these purposes, which took place in 2014. ASX was satisfied that all necessary steps in remediation were taken to protect the confidentiality of this type of information going forward.

