

## **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 September 2021. Investigations in relation to other enforcement matters are ongoing.

### **Compliance with position reporting**

ASX has issued a warning letter to an ASX 24 participant in relation to its compliance with the ASX 24 Operating Rules ('**ASX 24 OR**') relating to the requirement to submit daily beneficial ownership reports ('**DBORs**') in the following circumstances:

- A number of the participant's accounts were not reporting the name and address details of the beneficial owner ('**Event 1**').
- On one reporting day, the participant conducted a server upgrade, which caused its DBORs to be submitted 52 minutes late and a large number of duplicate files ('**Event 2**').
- On a separate day, the participant inadvertently over-stated their open long and short positions in a number of contracts in their DBOR submission, which was caused by the participant running its end-of-market process at the same time as it was performing a number of corrective actions in the GMI system ('**Event 3**').

These events represent breaches of ASX 24 OR:

- Procedure 4840(2a), as the name and address of the beneficial holder of certain positions were not reported (Event 1);
- Procedure 4840(1a), as a DBOR was not provided by 8.00 am (Event 2);
- 6704, as inaccurate and incomplete information was provided to ASX (Events 1 and 3); and
- 1000(d), as Events 1, 2 and 3 indicate that the participant does not have adequate processes in place for completing and submitting DBORs under the ASX 24 OR.

ASX has issued the participant with four warning letters in relation to breaches of ASX24OR 4840 in the prior 24 months.

ASX acknowledges that the participant:

- is undertaking significant technical remediation of the issue underlying Event 1;
- has updated its procedures to ensure more timely escalation of systems issues which might affect the submission of DBORs and implemented an exception process to allow staff to manually submit DBORs by 8:00am as required; and
- has reminded its service provider that processes which might interfere with the submission of DBORs should be scheduled so as to not interfere with that process.



ASX has required the participant to:

1. confirm when the technical change resolving the issues leading to Event 1 has been implemented;
2. conduct a review which covers its processes for completing and submitting DBORs. The review's scope must include (at a minimum):
  - a. how to minimise the risk of system and static data issues arising from client account and contract set-up;
  - b. the adequacy of the technology supporting its position management and reporting processes;
  - c. the adequacy and comprehensiveness of any pre- or post- submission reconciliations or checks that are used to ensure that DBOR submissions are complete, accurate and not misleading;
  - d. how the participant may confirm its resources and processes for completing and submitting DBORs:
    - i. accurately reflect the requirements of ASX 24 OR 4840 and the Daily Beneficial Ownership Report Format Guide;
    - ii. are adequately designed, implemented and function to ensure compliance with the relevant ASX operating rules;
    - iii. are adequately designed, implemented and function to mitigate the risks associated with position management and the recurrence of similar apparent breaches; and
    - iv. include escalation processes with appropriate internal cut-off times and contact details for each escalation point; and
3. provide ASX with a report on the findings of the review, including details of the work plan it will undertake to address any deficiencies.

