
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 31 December 2022. Investigations in relation to other enforcement matters are ongoing.

Adequate Resources and Processes

ASX has issued a warning letter to a participant in relation to its compliance with ASX 24 Operating Rule ("ASX240R") 1000(d), which requires it to have adequate resources and processes to comply with its obligations as a Participant. This includes adequate processes for submitting correct data to ASX in daily beneficial ownership reports ("DBOR") and for supervising any activities that have been offshored or outsourced.

ASX also reminded the participant of the importance of providing complete and timely responses to ASX's requests for information, and ensuring their staff understand ASX obligations.

To address ASX's concerns, ASX has required the participant to:

1. Establish an Obligations Register of relevant ASX obligations or an equivalent document/procedure update to reference the relevant ASX rules;
2. Implement staff training on the relevant ASX obligations which have been breached; and
3. Conduct a review of the participant's processes for completing and submitting DBORs in order to ensure they accurately reflect the requirements outlined under ASX240R 4840 and its processes in relation to the provision of requested information to ASX within required timeframes.

Background

ASX actively monitors the market as part of its role to reduce systemic risk and ensure its facilities' services are provided in a fair and effective way. DBOR data helps us perform essential risk based monitoring activities, including monitoring of client concentration, assessing a Participant's compliance with position limit requirements and the performance of various other monitoring activities.

ASX uses requests for information to help determine whether a breach has occurred and the seriousness of that potential breach. In light of this purpose, ASX views incomplete, inaccurate and tardy responses to requests for information from the ASX as indicators of a poor compliance culture and a relevant factor in determining future review and enforcement action.