



## Participant Circular

Date: 17 August, 2001

## Key topics

1. Tiffit Securities (Australia) Limited
2. Dragonstock Pty Limited
3. BNP Paribas Equities (Australia) Limited
4. Bowden Securities Limited

## Reading List

Compliance Managers  
 Client Advisers (Brokers)  
 DTR Operators.  
 Managing Directors.  
 Office Managers  
 Operations Managers (back office)

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## DISCIPLINARY MATTERS

The National Adjudicatory Tribunal has imposed a fine of \$100,000 (inclusive of GST) upon **Tiffit Securities (Australia) Limited** ("Tiffit") in respect of breaches of ASX Business Rules 1.3(6), 1.5.6, 1A.2.1(a), 1A.2.2(1)(b), 2.4.1(1)(b), 2.13.2(1)(a), 2.13.2(3), 5A.2.1, 5.11 and in respect of Prohibited Conduct as referred to in Business Rule 13.5.1 and as defined in the Business Rules.

The circumstances of this matter are as follows:

- Tiffit breached ASX Business Rule 1.3(6) during the period 1 October to 24 October 2000 in that Tiffit lodged its Annual Audited Return for the year ended June 2000 on 25 October 2000, 17 Business Days after the expiry of the extended period granted by ASX. Tiffit was fined \$5,910 in respect of this breach.
- Tiffit breached ASX Business Rule 1.5.6 by lodging Capital Liquidity Ratio Returns with ASX for the months April, May, June, July, August and September of 2000 which did not accurately reflect Tiffit's state of affairs at the time of lodgement, in that:
  - (1) Tiffit had not properly accounted for increases in share capital which should have been classified as debt;
  - (2) opening balances of the Participating Organisation purchased by Tiffit had not been brought forward in Tiffit's Returns and consequently these reflected only Tiffit's income and expenses since it commenced trading; and
  - (3) Tiffit's Returns did not properly account for some of the expenses incurred in purchasing the Participating Organisation.

Tiffit was fined \$20,000 in respect of this breach.

- Tiffit breached ASX Business Rule 1A.2.1(a) in that, on 22 November 2000 it executed a purchase of 7,875,000 Timemac Solutions Limited ("TML") securities, thereby incurring a 'Counterparty Large Exposure Risk Requirement' which caused Tiffit's Liquid Capital to be less than its Total Risk Requirement during the period 22 November 2000 and 10 January 2001. In addition, Tiffit failed to properly account for this 'Counterparty Large Exposure Risk Requirement' in returns it lodged with ASX during 22 November 2000 to 10 January 2001 and failed to notify ASX that its Liquid Capital divided by its Total Risk Requirement had fallen below 1.20 as required under ASX Business Rule 1A.2.2(1)(b). Tiffit was fined \$20,000 in respect of these breaches.

- Tiffit breached ASX Business Rule 2.4.1(1)(b), as on 22 November 2000, it purchased a parcel of 7,875,000 TML which were not quoted on ASX. Tiffit was fined \$5,000 in respect of this breach.
- On 22 November 2000, Tiffit entered into a Forward Delivery Transaction on the behalf of a client, being a purchase 7,875,000 TML with a settlement date of 5 January 2001. Tiffit did not obtain an initial deposit from its client of 25% of the Forward Price with respect to the Forward Delivery Transaction as required pursuant to ASX Business Rule 2.13.2(1)(a). On 13 December 2000, the price of TML fell to \$0.054 and Tiffit failed to call on its client to provide margin funds required pursuant to ASX Business Rule 2.13.2(3)(a). Tiffit was fined \$15,000 in respect of these breaches.
- Tiffit breached ASX Business Rule 5A.2.1 during the period 21 December 2000 to 10 January 2001, in that a temporary waiver granted to Tiffit pursuant to ASX Business Rule 5A.2.6 allowing it to operate without having an Affiliate Director on its Board of Directors expired on 21 December 2000 and Tiffit has subsequently failed to appoint any Affiliate Directors to its Board of Directors, has not applied for a further temporary waiver and has not advised of any arrangements that it is making to comply with ASX Business Rule 5A.2.1(1)(b). Tiffit was censured in respect of this breach.
- Tiffit breached ASX Business Rule 5.11 during the period 10 October 2000 to 10 January 2001, in that securities transactions by employees and directors of Tiffit were not settled within T + 3, thereby causing it to extend credit to its employees and directors. Tiffit was fined \$5,000 in respect of this breach.
- Tiffit engaged in Prohibited Conduct, in that on or about 22 November 2000, Tiffit engaged in conduct that constituted a substantial failure to reach reasonable standards of competence and diligence by reason of its failure to exercise sufficient management control and supervision in allowing a person who was neither a director nor a Proper Authority holder of Tiffit to commit it to a transaction (being the purchase of 7,875,000 TML on 22 November 2000) which caused Tiffit to breach ASX Business Rules and be suspended as a Participating Organisation. Tiffit was fined \$20,000 in respect of this breach.

In respect of these breaches, Tiffit has irrevocably and unconditionally undertaken to ASX to:

- (1) appoint a minimum of two (2) Affiliate Directors or two (2) Responsible Executives and apply to ASX for recognition of their status as Affiliates or Responsible Executives in accordance with the ASX Business Rules, within 3 months (or such later time as may be agreed with ASX) of the date of the Tribunal's determination ("the Tribunal's determination") in respect of the Notice of Charges filed by ASX pursuant to Final Inspection Report no. 2000131 concerning breaches of the ASX Business Rules by Tiffit;
- (2) ensure that the Affiliate Directors or Responsible Executives appointed in accordance with 1 above, shall be members of its Board of Directors, and shall comprise the majority of Directors on its Board unless and until ASX may agree this requirement is no longer necessary and informs Tiffit of this in writing;
- (3) under the overall guidance and supervision of the Affiliate Directors or Responsible Executives appointed in accordance with 1 above, it shall within six (6) months (or such later time as may be agreed with ASX) of the date of the Tribunal's determination:
  - (a) develop and implement a satisfactory compliance regime, which includes the creation and maintenance of written policies and procedures to ensure its compliance with ASX Business Rules, and the separation of front and back office functions; and
  - (b) develop and implement a program of regular and ongoing training (the form and content of which is to be satisfactory to ASX) for each of its trading representatives, advisers and other staff to ensure compliance with the ASX Business Rules;

- (4) on the six (6) month, and the twelve (12) month anniversary of the re-commencement of trading by Tiffit following the Tribunal's determination, it shall provide to ASX a written certificate, signed by each of the Affiliate Directors or Responsible Executives appointed in accordance with 1 above, stating:
- (a) each of the steps that Tiffit has taken to comply with the requirements in 3 above;
  - (b) whether they are satisfied that Tiffit is complying with the requirements in 3 above; and
  - (c) each of the steps taken and the matters relied upon by each of them, in certifying each of 4(a) and (b) to ASX.
- (5) agrees to be bound by the above undertakings and will not challenge any action taken by ASX to enforce any or all of these undertakings.

**Dragonstock Pty Limited** ("Dragonstock") has been fined \$22,000 (inclusive of GST) in respect of breaches of ASX Business Rules 1A.2.1(1)(a), 1A.2.2(1)(b) and 1A.2.10(2)(b).

The circumstances of this matter are as follows:

- Dragonstock breached ASX Business Rule 1A.2.1(1)(a) in that it failed to ensure that its Liquid Capital remained greater than its Total Risk Requirement during the period 1 November 2000 to 16 February 2001. The Tribunal imposed a fine of \$10,000 with respect to this breach.
- Dragonstock breached ASX Business Rule 1A.2.2(1)(b) in that it failed to notify ASX immediately when its Liquid Capital divided by its Total Risk Requirement fell below 1.2. The Tribunal imposed a fine of \$5,000 with respect to this breach.
- Dragonstock breached ASX Business Rule 1A.2.10(2)(b), in that when it lodged its Capital Liquidity Return for the period 1 December 2000 to 31 December 2000, this had not been certified by two directors as having been prepared in accordance with Rule 1A. The Tribunal imposed a fine of \$5,000 with respect to this breach.

With respect to these breaches the National Adjudicatory Tribunal made the following comments:

- Dragonstock largely accepted the alleged breaches, and sought to place blame on previous management of the company. This was irrelevant in the Tribunal's view.
- The failure to ensure that a Return to the Exchange was signed by directors of the company was particularly serious as it meant that the Exchange could not rely on any information received from the company.

**Dragonstock Pty Limited** ("Dragonstock") has been fined by the National Adjudicatory Tribunal a total of \$5,500 (inclusive of GST) in respect of breaches of ASX Business Rules 5.2.4(3) and 5.2.4(5).

The circumstances of this matter are as follows:

- During the course of the year 2000, Dragonstock breached ASX Business Rule 5.2.4(3) on four occasions by failing to notify the Exchange in writing by no later than the next business day of changes to its Affiliate directors or resignations of non-Affiliate directors.
- During the course of the year 2000, Dragonstock breached ASX Business Rule 5.2.4(5) on four occasions by failing to give the Exchange 10 days written notice before appointing a new non-Affiliate director.

With respect to these breaches the National Adjudicatory Tribunal made the following comment:

- Dragonstock accepted the alleged breaches but sought to place blame on previous management of the company. In the Tribunal's view this was irrelevant.

**BNP Paribas Equities (Australia) Limited** ("BNPPE") has been fined a total of \$5,500 (inclusive of GST) by the National Adjudicatory Tribunal in relation to a breach of ASX Business Rule 2.20.3(1). The circumstances of this matter are that on 10 January 2001, BNPPE, acting on behalf of a bidder who had made a takeover offer for Taipan Resources NL ("TAI"), increased the price of an existing bid in SEATS (made on behalf of the bidder) to a price (8.2 cents per fully paid share) that was greater than the amount offered under the takeover bid (7.6 cents per fully paid share), prior to an announcement being made to ASX by the bidder that the takeover bid had been varied. Four trades for a total volume of 133,776 TAI (this was 0.06% of the total fully paid TAI shares on issue) at 8.2 cents each were executed as a result of the increase in the price of the bid by BNPPE. In making its determination the Tribunal noted the following:

- BNPPE was unaware that it had breached Rule 2.20.3(1) until this matter was brought to its attention by ASX;
- BNPPE cooperated fully with ASX and cancelled the four trades;
- due to the small scale of the trades and the low value of TAI, the Tribunal was satisfied that the market was not adversely affected; and
- the breach was not deliberate or premeditated.

The Tribunal further recommended that BNPPE put in place an appropriate training program to ensure that a breach of this nature does not occur again.

**Bowden Securities Limited** ("Bowden") has been fined \$2,200 by the National Adjudicatory Tribunal in relation to a breach of ASX Business Rule 1.2.2(1), in that between 24 December 1999 and 14 November 2000 Bowden failed to open or maintain a trust account as required pursuant to ASX Business Rule 1.2.2(1).