



## ACH Notice

Date: 24 January 2006

## Key topics

1. JP Morgan Securities Australia Limited

## Reading List

Client Advisers  
 Compliance Managers  
 ACH Participants  
 ASTC Participants  
 Operations Managers (back office)  
 Share Registries

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## PARTICIPANT NOTICE

## DISCIPLINARY MATTERS

The ACH Disciplinary Tribunal ("**the Tribunal**") has determined the following:

JP Morgan Securities Australia Limited ("**JPM**") has been fined \$40,000 (plus GST) for contravening ACH Rule 5.1.1 by virtue of its failure to comply with the following Risk Based Capital Requirements set out in Schedule 1 of the ACH Rules:

- (a) S1.2.1(1)(a); and
- (b) S1.2.2(1)(b).

In summary, on 17 June 2004 as a result of a large transaction executed as Principal, JPM's Liquid Capital went below its Total Risk Requirement between 10:16am and 10:49am ("**the Relevant Period**"), contrary to S1.2.1(1)(a). In addition, JPM failed to immediately notify ACH that its Liquid Capital divided by its Total Risk Requirement had fallen below 1.2 during the Relevant Period, contrary to S1.2.2(1)(b).

For the purposes of these proceedings, JPM did not contest the contraventions before the Tribunal.

The Tribunal noted that the Risk Based Capital Requirements are a fundamental aspect of ACH's prudential regulation of its Participants. Failure to comply with those requirements has the potential to adversely affect the financial stability of Participants, which, in turn, has the potential to adversely affect the reputation of ASX, the integrity of its markets and the financial security of Participants' clients. Accordingly, the Tribunal views breaches of the Risk Based Capital Requirements as a matter of serious concern.

The circumstances of this matter are detailed as follows:

On 16 June 2004, a client of JPM placed a portfolio buy order for 194 securities at prices to be determined during the opening phase of the market on 17 June 2004 ("**the Transaction**"). JPM agreed to facilitate the Transaction and purchased the majority of the securities as Principal during the opening phase of the market on 17 June 2004. The value of the securities purchased was approximately \$987.9 million. JPM subsequently reported a Portfolio Special Crossing. However, as a result of JPM's Principal purchasing during the opening phase of the market before on-selling the securities to the client, there was a period of approximately 33 minutes where JPM's Liquid Capital fell below its Total Risk Requirement by approximately \$13 million, resulting in a breach of S1.2.1(1)(a). Participants are required under S1.2.1(1)(a) to ensure that their Liquid Capital is **at all times** greater than their Total Risk Requirement.

To ensure that ACH is kept informed of the Risk Based Capital Requirements of Participants in the market, there is a requirement to immediately notify ACH if the Participant's Liquid Capital divided by its Total Risk Requirement is equal to or falls below 1.2. JPM failed to immediately notify ASX that its Liquid Capital divided by its Total Risk

Requirement was 0.90 during the Relevant Period, which resulted in a breach of S1.2.2(1)(b).

The Tribunal is satisfied that JPM breached ACH Rule 5.1.1 by virtue of its failure to comply with the requirements of S1.2.1(1)(a) and S1.2.2(1)(b) of Schedule 1 of the ACH Rules during the Relevant Period.

Since this transaction, JPM has implemented a number of changes to ensure closer scrutiny of its capital requirements.

In determining the penalty to be imposed, the Tribunal took into account a number of matters, including the following:

- (a) the circumstances and duration of the contraventions;
- (b) the action that JPM has taken since identifying the contraventions;
- (c) the prior history of JPM;
- (d) the value of the securities purchased by JPM and the consequent significant shortfall in its Liquid Capital; and
- (e) the matter was not self reported and was not, in fact, identified by JPM until it was contacted by ASX Prudential Risk Management.