



ASTC Bulletin

Date: 2 October, 2009

Key topics

1. Macquarie Equities Limited

Reading List

Compliance Managers
Managing Directors
ASTC Participants
Office Managers
Share Registries

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PARTICIPANT BULLETIN

Disciplinary Matters

The ASX Disciplinary Tribunal has determined the following:

Macquarie Equities Limited initiated Transfers of four different securities as agent, that gave effect to new CHESS holdings of less than a Marketable Parcel being established in 54 instances, in contravention of ASTC Settlement Rule 8.10.2.

The contravening conduct occurred between 23 May 2007 and 7 June 2007. Macquarie did not contest the contravention before the Tribunal.

For this contravention the Tribunal imposed a fine of \$15,000.00 (plus GST).

The circumstances of this matter are detailed as follows:

1. The four securities the subject of the contravention are Ironbark Capital Limited ("IBC"), Evans & Tate Limited ("ETW"), Austin Engineering Limited ("ANG") and Magnesium International Limited ("MGK").
2. The definition of 'marketable parcel' of equity securities is a parcel with a value not less than \$500 based on the closing price on the Trading Platform.
3. Macquarie initiated purchases of the four securities on behalf of its clients. The Transfers of those securities created new CHESS Sponsored Holdings of values between \$3.00 and \$47.70. These Holdings did not meet the requirement of having a value not less than \$500.
4. On 23 May 2007 Macquarie initiated five purchases on the ASX Market of 12 ordinary shares in IBC for each of the five separate clients. On 28 May 2007 Macquarie initiated Transfers of IBC that created five new CHESS Sponsored Holdings each valued at \$7.86 (less than Marketable Parcel).
5. On 28 May 2007 Macquarie initiated 12 purchases on the ASX Market of 30 ordinary shares each in ETW for each of the 12 separate clients. On 31 May 2007 Macquarie initiated Transfers of ETW that created 12 new CHESS Sponsored Holdings each valued at \$4.80 (less than Marketable Parcel).
6. On 29 May 2007 Macquarie initiated 10 purchases on the ASX Market of 30 ordinary shares in ANG for each of the 10 separate clients. On 1 June 2007 Macquarie initiated Transfers of ANG that created 10 new CHESS Sponsored Holdings each valued at \$47.70 (less than Marketable Parcel).
7. On 4 June 2007 Macquarie initiated 27 purchases on the ASX Market of 30 ordinary shares in MGK for each of the 27 separate clients. On 6 June 2007 Macquarie initiated Transfers of MGK that created 27 new CHESS Sponsored Holdings each valued at \$3.00 (less than Marketable Parcel).
8. IBC, ANG and MGK announced corporate actions around the time of the purchases. Macquarie, in giving effect to the Transfers, enabled its clients to participate in the corporate actions.

In determining sanction the Tribunal took into account a number of matters including the following:

- (a) Macquarie indicated at an early stage that it would not contest the proceedings;
- (b) Macquarie co-operated fully with ASX in relation to the conduct of the investigation and proceedings;
- (c) Macquarie immediately took remedial action to prevent reoccurrence of the contravening conduct including building a new vetting rule into the DirecTrade system to prevent clients from entering into a transaction to purchase less than a marketable parcel of securities. The remedial action reduced the penalty that would otherwise have been appropriate;
- (d) The purpose of ASTC Settlement Rule 8.10.2 in establishing a minimum limit for a Holding of a security for the administrative convenience of the Issuer; and
- (e) The importance of ASTC Settlement Rule 8.10.2 in that it is one of the means by which ASX has sought to satisfy its obligations under the Corporations Act to do all things necessary to ensure that a facility's services are provided in a fair and effective way.

Disciplinary Tribunal Sanction Guidelines

The misconduct occurred before 31 March 2008, that being the Effective Time under the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook. Therefore, the applicable Tribunal sanction guidelines are those contained in ASTC Settlement Guidance Note 8 which was in effect at the material time. Taking into account the mitigating circumstances in this matter the Tribunal determined that a fine of \$15,000 was an appropriate sanction. The Tribunal is of the opinion that this sanction will act as a deterrent and appropriately serves the interests of ASX and Market Participants.