

ASX Circular

Date: 22 February 2011

Key topics

1. UBS AG

Reading List

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

Contact

Cigdem Kocak

Telephone

(02) 9227 0112

ASX Limited
ABN 98 008 624 691
Exchange Centre
20 Bridge Street
Sydney NSW 2000
PO Box H224
Australia Square NSW 1215
Internet: <http://www.asx.com.au>

No responsibility is accepted for any inaccuracies contained in the matter published.

DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal (the 'Tribunal') has determined the following:

UBS AG ('UBS') contravened Sydney Futures Exchange Operating Rules 3.1.20(a) (Post-allocation Prohibition), 2.2.23(c) (Order Records and Accounting Records – Error Trades) and 2.2.23(a)(i) (Order Records and Accounting Records – Client Orders) on 14 May 2010.

UBS did not contest the contravention before the Tribunal.

The Tribunal imposed a total fine of **\$20,000** (plus GST).

The circumstances of the matter are detailed as follows:

The contravention occurred on 14 May 2010 in relation to trading in the June 2010 Intra-day Call Options over the Three Year Commonwealth Treasury Bond Futures Contract (YDM0) ('the Calls'). The times referred to below are times on 14 May 2010.

At around 08:56:20, a representative ('Client Rep 1') of UBS's client (the 'Client') contacted a representative of UBS ('UBS Rep 1') and placed an order to sell 1,000 of the Calls at 1.0 points.

At 08:56:36, UBS Rep 1 entered an order to sell 500 of the Calls at 1.0 points (order 4969456).

At around 09:11:33, a second representative of UBS ('UBS Rep 2') took an order from a different representative of the Client ('Client Rep 2') to buy 1,000 lots of the Calls at 1.0 points.

At 09:11:38, UBS Rep 2 entered an order to buy 750 Calls paying 1.0 (order 4970215) with client ID 'HOUSE'. The entry of this order resulted in the following trades:

- Order 4970215 traded with order 4969052 for 250 lots (deal 5612); and
- Order 4970215 traded with order 4969456 for 500 lots (deal 5613).

This left 250 lots of Client Rep 2's buy order still to trade.

At 09:11:48, UBS Rep 2 sought to enter the remainder of Client Rep 2's buy order into the Trading Platform. However, instead of placing an order for 250 lots, UBS Rep 2 placed an order for 500 lots in error (order 4970249).

At 09:11:48 (at the same time as UBS Rep 2's order entry), UBS Rep 1 entered an order on behalf of Client Rep 1 to sell the remaining 500 lots of his order (order 4970252). This resulted in order 4970249 trading with order 4970252 for 500 lots (deal 5642).

When Client Rep 2 was informed by UBS Rep 1 that he had bought 1,250 Calls, Client Rep 2 stated that his order was for 1,000 lots only, but that he would take the entire volume.

UBS unintentionally contravened Operating Rule 3.1.20 when the entire 1,250 lots were allocated to the Client's account when 250 lots of this allocation were not obtained pursuant to instructions already held from the Client. UBS contravened Operating

Rule 2.2.23(c) when, in the belief that no error had occurred, the UBS representatives did not create an error report of the error trade. Further, in contravention of Operating Rule 2.2.23(a)(i), UBS's internal record of Client Rep 2's order was inaccurate in referring to 1250 lots.

In determining penalty, the Tribunal, among other things, took into account the following matters:

- UBS assisted and cooperated with the ASX in its investigation;
- UBS made a decision at first opportunity not to contest the contraventions at the Tribunal;
- the misconduct was an isolated incident and was unintentional;
- there is no evidence that this was a systemic failure on the part of UBS;
- UBS had previously provided compliance training to its representatives on their obligations under the Operating Rules, which included training on post-allocation prohibition, order records and error records;
- UBS's disciplinary history, when compared to its peers and given its market share, is relatively good;
- the conduct had the potential to result in a loss to the Client, although had there been any loss (which may not have occurred, having regard to other trades) the loss would have been capped at \$7,000 (250 lots traded at 1 point); and
- the conduct had the potential to damage the reputation and integrity of the ASX and the market and facilities it operates, although since one client of UBS was on both sides of the transaction, no other clients could have been impacted and no other market participants would have suffered any loss financially or otherwise from the relevant conduct.

Disciplinary Tribunal Sanction Guidelines

As the contravening conduct occurred after 31 March 2008 (and prior to 1 August 2010*), that being the effective time under the ASX Disciplinary Processes and Appeals Rulebook (the 'Rulebook'), the Tribunal was bound by the sanction guidelines (Annexure A to the Rulebook Procedures) in making its determination as to sanction in this matter.

In accordance with the sanction guidelines at Annexure A, the Tribunal determined that the contraventions were appropriately classified as Level 2 ('Serious') Contraventions, for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). The Tribunal is of the view that given the mitigating and aggravating circumstances in relation to these contraventions, a fine of \$20,000 (plus GST) is appropriate.

* On 1 August 2010, the supervision of trading on Australia's domestic licensed markets and the supervision of trading participants transferred from ASX to the Australian Securities and Investments Commission (ASIC). The conduct that is the subject of these contraventions occurred prior to the transfer date. ASX will continue to manage, and bring before the Tribunal, disciplinary matters for potential breaches of its operating rules occurring before the transfer date.

As part of the transfer, a number of changes were made to the rules, including the replacement of the Operating Rules of Sydney Futures Exchange by the ASX 24 Operating Rules (administered by ASX) and the ASIC Market Integrity Rules (ASX 24 Market) (administered by ASIC). Potential operating rule breaches which occurred prior to 1 August 2010 will be dealt with in accordance with the rules in place at the time of the alleged breach.