No: 069/11

AMENDED CIRCULAR: DISCIPLINARY MATTERS

ASX Circular

Date: 23 February 2011

Key topics

1. MF Global Australia Limited

Reading List

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

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The ASX Disciplinary Tribunal (the 'Tribunal') has determined the following: MF Global Australia Limited ('MF Global') contravened the following Operating Rules of the Sydney Futures Exchange* ('the Exchange'):

Rule 3.1.10(a) by disclosing to another party information about an order not known to the rest of the market and not specifically permitted otherwise under the SFE Operating Rules ('Contravention 1');

Rule 3.1.11 by withholding orders with an intent to obtain a counterparty/counterparties ('Contravention 2'); and

Rule 3.1.13 by arranging the details of a potential trade between two or more parties without the market being made aware of all relevant details of the potential trade, and not in a manner specifically permitted under the SFE Operating Rules ('Contravention 3').

The contravening conduct occurred on 20 May 2010 and concerned trading in the June 2010 Three Year Commonwealth Treasury Bond Futures Contract (YTM0) Intra-day Options over the YTM0 (YDM0).

MF Global did not contest the contraventions before the Tribunal.

The Tribunal imposed a total fine of $50,000 (plus GST).

The circumstances of the matter are detailed as follows:

Contravention 1

At 08:33 on 20 May 2010, MF Global incorrectly entered an Ask into the Trading Platform to sell 1000 YDM095180 put options at 1.0 point (the 'Error Order') instead of the order it had received from a client to sell 1000 YDM095180 call options at 1.0 point (the 'Original Order'). The Original Order was not a Pre-Negotiated Order. The Error Order traded at approximately 08:33 on 20 May 2010 (the 'Error Position').

At 8:34 MF Global contacted the Exchange to claim an error on the trade that created the Error Position. At 8:42 the Exchange contacted MF Global to convey that the trade in question fell within the Qualifying Error Range ('QER'), thus requiring counterparty approval for cancellation. At approximately 08:48 on 20 May 2010 the Exchange contacted MF Global by telephone and advised that the Error Position did not qualify for cancellation as the counterparty had not consented to cancellation.

At 08:59 on 20 May 2010, prior to trading out of the Error Position, MF Global's representative contacted a client, who was also counterparty to the trade that created the Error Position (the 'Client') to discuss the Error Position and ways to trade out of it. This information was not known to the rest of the market.

MF Global's representative disclosed information to another party that was not known to the rest of the market. MF Global therefore contravened SFE Operating Rule 3.1.10(a).

Contravention 2

On 20 May 2010 MF Global's representative did not immediately enter an order into the market to trade out of its Error Position and instead withheld the order with the intention of obtaining a counterparty, the Client. MF Global therefore contravened SFE Operating Rule 3.1.11.

Contravention 3

On 20 May 2010 MF Global's representative pre-arranged a trade between MF Global and the Client by not representing the order to trade out of the Error Position in the market and instead, divulging to, and receiving an opposing order from the Client which constituted a private arrangement for the deal to take place. MF Global therefore contravened SFE Operating Rule 3.1.13.

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

(a) The disciplinary history of MF Global.

(b) MF Global did not contest liability with respect to the Contraventions.

(c) The misconduct was an isolated instance.

(d) MF Global has implemented measures to prevent the contravening conduct.

(e) The misconduct was negligent.

(f) MF Global fully co-operated with ASX in relation to the conduct of its investigation into the matter.

(g) The misconduct had the potential to damage the reputation and integrity of the ASX and the market and facilities it operates.

(h) The misconduct was self-reported, however this was in relation to a breach of SFE Operating Rule 3.3.2.

Disciplinary Tribunal Sanction Guidelines

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

In accordance with the sanction guidelines at Annexure A, the Tribunal determined that the three contraventions of the SFE Operating Rules were appropriately classified as Level 2 (Serious Contraventions), for which the applicable penalty range is $20,000 - $100,000 (plus GST).

The Tribunal considered the aggravating and the mitigating circumstances in each contravention, and imposed the fine as outlined above. The Tribunal considers that the total fine of $50,000 (plus GST) represents an appropriate sanction in the circumstances.

*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. 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.

As of 1 August 2010, the Sydney Futures Exchange became known as ASX 24.