



ASX Circular

Date: 1 March 2010

Key topics

1. Citigroup Global Markets Australia Pty Limited

Reading List

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

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DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal has determined the following:

Citigroup Global Markets Australia Pty Limited ('CGMA') contravened ASX Market Rule 14.1.1 with respect to an Order it entered into the Trading Platform to Cross a quantity of fully paid ordinary shares of James Hardie Industries N.V. (formerly James Hardie Industries Limited) ('JHX') which resulted in a market for JHX that was not both fair and orderly.

CGMA did not contest the contravention before the Tribunal.

For this contravention the Tribunal imposed a fine of \$30,000 (plus GST).

The circumstances of the matter are detailed as follows:

On 15 October 2008, a CGMA Designated Trading Representative ('DTR') inadvertently entered an Order to Cross 160,000 JHX at \$1.85 into the ASX Integrated Trading System ('ITS'). The DTR had intended to enter the Order at a price of \$4.85.

The DTR entered the Order at \$1.85, even though prior to this, the Bid/Ask/Last for JHX was \$4.84/\$4.85/\$4.85 and the DTR received two ITS price warnings.

The Order traded immediately and in its entirety, resulting in a market for JHX that was not both fair and orderly. CGMA sold a total of 88,671 JHX at prices from \$4.84 down to \$3.30 which cleared out the entire Bid Schedule. The residual 71,329 JHX crossed at \$1.85 and the price of JHX fell 61.86% from \$4.85 to \$1.85.

CGMA subsequently cancelled its Crossing of 71,329 JHX at \$1.85. CGMA promptly advised ASX Market Control of the error and requested cancellation of trades by the ASX Dispute Governors Committee ('the Committee').

A total of 19 Market Transactions in JHX that traded at \$4.65 and below were cancelled. The cancellation price of \$4.65 set by the Committee represented a 4.12% decrease in the price of JHX.

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

- The importance of the strict obligation imposed on Participants by ASX Market Rule 14.1.1 which requires that Participants do not do anything which results in a market for a Product not being both fair and orderly;
- An important aspect of the role of the DTR is to review and prevent the entry of orders into the trading platform that could result in a market that is not fair or orderly. This is a critical and important measure for maintaining the integrity of the market, and facilitating the conduct of an orderly market. The DTR failed in this case to perform this function to the requisite high standard;
- The misconduct had the potential to damage the reputation and integrity of the ASX and the market and facilities it operates;
- The remedial actions taken by CGMA to prevent recurrence of the contravening conduct, including providing focused training to all DTRs to ensure that they are aware of their obligations as DTRs and the importance of accurate information being entered into the market;

- The misconduct was inadvertent and arose out of a one-off, isolated incident;
- CGMA self-reported the matter to ASX Market Control;
- CGMA's full cooperation with ASX Investigations in the investigation of the matter;
- CGMA agreed at an early stage not to contest the contravention brought against it; and
- CGMA's disciplinary history, having had two unrelated disciplinary sanctions recorded against it by the Tribunal in the previous two years.

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.

The Tribunal determined that this contravention was classified as a Level 2 Serious Contravention, for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). Given the mitigating and aggravating circumstances in this matter the Tribunal determined that a fine of \$30,000 (plus GST) 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 in maintaining a market that is fair, orderly and transparent.