



ASX Circular

Date: 22 March 2007

Key topics

1. Macquarie Equities Limited

Reading List

Client Advisers
 Compliance Managers
 Managing Directors
 Office Managers
 Operations Managers (back office)
 Market Participants

Contact

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

DISCIPLINARY MATTER

The Australian Securities Exchange's Disciplinary Tribunal ("the Tribunal") has determined the following:-

Macquarie Equities Limited ("MEL") failed to retain a Warrant Client Agreement Form as required in accordance with the obligations imposed under old ASX Business Rule 8.14.1.

MEL elected not to contest the contravention before the Tribunal.

The Tribunal imposed a fine of \$12,000 (plus GST) in respect of this contravention.

The circumstances of this matter are detailed as follows:

Between 21 November 2000 and 2 January 2003, a Client of MEL traded through MEL's DirecTrade system, an online execution only service. During this period, MEL executed orders in securities and warrants for the Client.

In December 2003, the Client lodged a complaint with the ASX. In his complaint, the Client stated:

- (i) he did not believe he had signed any agreement form with MEL relating to Warrants trading; and
- (ii) he was not provided with an ASX explanatory booklet on Warrants before he commenced to trade warrants.

ASX requested a copy of the signed Warrant Client Agreement Form which MEL was required to retain in accordance with its continuous obligations under old ASX Business Rule 8.14.1.

On 25 August 2004, MEL advised ASX that it was unable to produce a copy of the signed Warrant Client Agreement Form.

Information and documentation provided to the ASX by MEL indicated that MEL had obtained a signed Warrant Client Agreement Form from the Client, and that this had been obtained on or before 14 November 2001.

While this was apparently a one off issue and not a systemic problem, MEL's failure to retain the relevant Warrant Client Agreement Form is of concern to the Tribunal. In the Tribunal's view, the requirement under the Rules to ensure that potential investors are provided with the explanatory booklet on warrants is an important investor protection measure. The retention of signed Warrant Client Agreement Forms evidences and confirms that investors have been informed of the risks involved in warrants trading. In this case, however, there is information available that suggested that the client was provided with the appropriate disclosures on the risks of warrant trading. The proper retention of such documents also benefits the Participant in cases of client dispute.

In determining penalty the Tribunal took into account the following matters:

- a) the facts and circumstances of the contraventions;
- b) disciplinary history of MEL;
- c) the inadequacies of MEL's record keeping/document retention procedures;
- d) the matter was an isolated issue relating to a single document, and not a systemic problem;

- e) MEL's co-operation with ASX in the investigation of the matter;
- f) The corrective action undertaken by MEL to prevent any reoccurrence including amending the procedures for the processing and scanning of account application and warrant trading agreements such that documents are scanned upon receipt and prior to an account being opened in contrast to the prior process which saw accounts being opened and then documents being sent for scanning.