ASX
AUSTRALIAN SECURITIES EXCHANGE

ASX Circular

Date: 15 May 2009

Key topics
1. Australian Investment Exchange Limited

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

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DISCIPLINARY MATTERS

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

Australian Investment Exchange Ltd ("AUSIEX") has been fined $20,000 (plus GST) for contravening ASX Market Rule 14.1.1 with respect to an order that it placed on behalf of a client to buy 1,000,000 call options in Ashburton Minerals Limited ("ATNOA"), which resulted in a market that was not fair and orderly.

AUSIEX did not contest the contravention before the Tribunal.

In determining penalty, the Tribunal, inter alia, took into account the following matters:

(a) The circumstances of the contravention;

(b) The immediate action taken by AUSIEX to try to rectify the matter;

(c) AUSIEX's co-operation with ASX Investigations in the investigation of the matter;

(d) AUSIEX's early agreement not to contest the matter;

(e) The importance of the strict obligation imposed on market participants by 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;

(f) The importance of the role of a Designated Trading Representatives ('DTR') in reviewing and preventing the entry of orders into the trading platform that could result in a market that was not fair and orderly;

(g) AUSIEX has provided additional training and monitoring to all DTRs;

(h) AUSIEX's good disciplinary history (this matter was AUSIEX's first matter before the Tribunal);

(i) The relative illiquidity of the stock meant that the consequences of the contravention were limited; and

(j) The unintentional and inadvertent nature of the contravention.

The circumstances of this matter are detailed as follows:

On 26 August 2008 a client of AUSIEX entered an order into AUSIEX's Automated Order Processing system to buy 1,000,000 ATNOA at $0.05 ("the Buy Order"). The Buy Order was diverted to an AUSIEX DTR for review. The DTR entered the Buy Order into the trading platform even though, at the time of the review, the bid/ask/last for ATNOA was $0.007/$0.008/$0.007 and various warning messages were displayed on his computer screen.

The Buy Order traded immediately with existing offers, resulting in 3 transactions. It was then filled by 3 more transactions resulting from new offers entered by another market participant. It subsequently transpired that the client had intended to enter the order at $0.005, not $0.05. AUSIEX sought to have the Buy Order cancelled.

However, the Dispute Governors Committee ruled that only the final 3 transactions should be cancelled.

Accordingly, AUSIEX contravened ASX Market Rule 14.1.1 in that it entered a buy order into the trading platform for 1,000,000 ATNOA, giving rise to subsequent transactions and cancellations, resulting in a market for ATNOA which was not fair and orderly.

Annexure A - 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 Disciplinary Tribunal Sanction Guidelines 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 circumstances in this matter the Tribunal determined that a fine of $20,000 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 in maintaining a market that is fair, orderly and transparent.