

ASX Circular

Date: 1 May 2007

Key topics

1. Merrill Lynch Equities Australia Limited

Reading List

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

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

## DISCIPLINARY MATTERS

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

Merrill Lynch Equities Australia Limited ("MLEAL") has been fined a total of \$40,000 plus GST in respect of the contraventions of:

- (i) ASX Market Rule 13.2.2 (DTRs may submit Trading Messages) by allowing 7 non-Designated Trading Representatives ("DTRs") to submit 4,421 orders into the Derivatives Trading Platform ("DTP") via MLEAL's IRESS Order System ("IOS") during the period 1 February 2004 to 24 November 2005; and
- (ii) ASX Market Rule 13.1.6(f) (Trading Management Arrangements) by failing to have arrangements in place to maintain the name of the DTR for each Trading Message submitted into the DTP via IOS during the period 1 October 2004 to 31 January 2005.

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

1. The size and duration of the contraventions.
2. MLEAL self-reported to ASX that it had allowed Trading Messages to be submitted into the DTP by non-DTRs.
3. MLEAL immediately took corrective action to prevent a reoccurrence.
4. MLEAL co-operated fully with ASX in relation to the conduct of the investigations and proceedings.
5. No clients were affected or lost money as a result of the breaches.

The circumstances of this matter are as follows:

By way of a letter dated 25 November 2005, MLEAL self-reported to ASX that:

"Orders for Exchange Traded Options ("ETOs") were entered into the Derivatives Trading Platform ("DTP") by registered SEATS DTRs instead of a registered DTP DTR."

A number of MLEAL's ETO orders came from Merrill Lynch Private (Australia) Ltd ("MLP"). Due to the increasing number of ETO orders being placed by MLP, MLEAL decided that it would be more appropriate for MLP to enter its ETO orders through IRESS.

MLEAL further stated:

"However, when the new procedure was set up access was given to all DTRs rather than just DTP DTRs."

An analysis of MLEAL's orders indicated that 4,421 orders were submitted into the DTP and the number of non-DTRs who submitted those orders into the DTP was seven, contrary to ASX Market Rule 13.2.2.

In respect of ASX Market Rule 13.1.6(f), a Trading Participant must have arrangements in place so that at all times the Trading Participant can determine the origin of all orders and Trading Messages, including:

(f) the DTR with responsibility for that Open Interface Device or computer or other device connected to the Open Interface Device (unless the Trading Message was the result of Automated Order Processing).

MLEAL did not operate IOS as an Automated Order Processing system with respect to submitting Trading Messages into the DTP, and did not maintain the name of the DTR for each Trading Message entered into the DTP via IOS during the period 1 October 2004 to 31 January 2005.