ASX
AUSTRALIAN SECURITIES EXCHANGE

ASX Circular

Date: 4 July 2011

Key topics

1. Deutsche Bank AG

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 imposed a total fine of $30,000 (plus GST) on Deutsche Bank AG ('DBAG') for the contravention of Operating Rule 3.1.5 of the Sydney Futures Exchange ('Exchange') by its Client (the 'Client'), a related body of DBAG, by placing orders which resulted in trades that were misleading concerning the price of the March 2010 SFE SPI200™ Index Futures Contracts ('APH0').

The contravening conduct occurred on 11 March 2010, between approximately 11:38:32 and 11:41:26, and contributed to an overall 17 point price decrease in the APH0 which was, as a result, misleading with regard to the price of the APH0 contracts.

The Tribunal has determined that DBAG is responsible for the orders of its client entered through DBAG's terminal and therefore liable for this contravention pursuant to SFE Operating Rule 2.2.13(b)(i) which states:

"Any Full Participant who has permitted its client to connect through a Terminal shall be responsible for any orders entered through its Terminal by the Client."

DBAG elected not to contest the contraventions before the Tribunal.

The Circumstances of the matter are detailed as follows:

Between approximately 11:38:32 and 11:39:48 (the 'Relevant Period') the Client's algorithmic trading system (the 'Trading Algorithm') entered 514 orders to sell a total volume of 10,780 APH0 contracts into the Trading Platform (the 'Sell Orders').

A total of 511 of the Sell Orders were for 21 APH0 contracts. The remaining three of the Sell Orders were for 18, 17 and 14 APH0 contracts respectively. The Sell Orders were limit orders with specific execution prices ranging between 4834 and 4817 points.

Within 10 seconds of the initial Sell Orders being placed into the Trading Platform, a Representative of the Client (the 'Representative') noticed that the Trading Algorithm was malfunctioning and was repeatedly placing erroneous orders to sell APH0 into the Trading Platform. The Representative attempted to manually cancel the individual Sell Orders but was initially unable to do so, due to an issue with the Trading Algorithm's user interface.

At approximately 11:39:58 the Representative managed to shut down the server on which the Trading Algorithm was running, thereby preventing any further orders being placed by the Client into the Trading Platform.

Subsequently, at approximately 11:41:26, the Representative entered an order into the Trading Platform to buy 903 APH0 contracts at 4819 (the 'Buy Order') which cross traded with some of the outstanding Sell Orders, resulting in 44 separate trades for 888 APH0 contracts at 4819. The Buy Order was entered in an attempt to counteract the effect the initial Sell Orders were having on the market price for APH0 contracts.

Of the total 514 Sell Orders, 122 traded in full for a total volume of 2591 APH0 contracts at prices ranging between 4834 to 4817 points (the 'Relevant Trades'). The remaining 392 Sell Orders were eventually cancelled by the Client during the Relevant Period.

The following table shows the prices at which the Relevant Trades traded and the volume of APH0 traded at each price:

Price	Volume sold
4834	8
4833	45
4832	25
4830	10
4826	6
4824	8
4820	361
4819	1029
4818	819
4817	280

The Client was the client on both the buy and sell side of the transaction in relation to 888 of the 1029 APH0 contracts traded at 4819.

At approximately 11:46, the Client contacted the Exchange and requested the Relevant Trades be cancelled. The Client was advised that the trades that fell within the No Cancellation Range would not be cancelled, and the trades that fell within the Qualifying Error Range would only be cancelled if reported within five minutes of the trade occurring. As it had been longer than five minutes, those trades would not be cancelled.

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

a) The disciplinary history of DBAG.

b) DBAG fully assisted and cooperated with ASX in its investigation.

c) The misconduct was an isolated incident.

d) DBAG has taken steps to prevent a recurrence of the misconduct.

e) The misconduct attributed to DBAG was at least negligent.

f) The misconduct had the potential to result in loss to other parties.

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

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 contravention of the SFE Operating Rules was appropriately classified as a Level 2 (Serious Contravention), for which the applicable penalty range is $20,000 - $100,000 (plus GST).

In its determination, the Tribunal stated that a contravention of this nature in relation to algorithmic trading could be classified as level 3 (Very Serious Contraventions), since in different circumstances it may have had the potential to cause grievous harm to the reputation and integrity of the ASX and the market and facilities it operates.

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 $30,000 (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.