

ASX Circular

Date: 20 June, 2007

Key topics

1. optionsXpress Australia Pty Ltd

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:

optionsXpress Australia Pty Ltd ("OXA") has been fined \$10,000 (plus GST) for contravening ASX Market Rule 6.1.1 by failing to comply with the Risk Based Capital Requirements contained in Schedule 1A.2.10(1) of Schedule 1A to the ASX Market Rules, in that the monthly Capital Liquidity Returns for November 2005 to August 2006 inclusive ("the Relevant Period"), which OXA prepared and submitted to ASX, did not accurately reflect its accounts and financial position.

Without admitting or denying ASX's allegations, OXA did not contest the contravention before the Tribunal.

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

- (a) the circumstances of the matter;
- (b) OXA's disciplinary history, having had no previous disciplinary actions recorded against it;
- (c) OXA identified and self-reported the issue;
- (d) The remedial actions undertaken by OXA to address the issue and to prevent any future reoccurrence;
- (e) The unintentional and inadvertent nature of the contraventions;
- (f) OXA's Liquid Capital did not at any time fall below its Total Risk Requirement during the Relevant Period and therefore OXA's financial stability was not at issue in this matter;
- (g) OXA fully co-operated with ASX Investigations in the investigation of the matter; and
- (h) Tribunal precedents in similar matters.

The circumstances of this matter are detailed as follows:

An error in the implementation of an operational arrangement with a related entity resulted in OXA's receipt of overpayments of brokerage/revenues during the Relevant Period. These overpayments meant that the Capital Liquidity Returns prepared and submitted by OXA to ASX during the Relevant Period did not accurately reflect its accounts and financial position. The issue was identified by OXA and an accounting adjustment (deduction) was made in its September 2006 Capital Liquidity Return to correct the accumulated overpayments.

The Tribunal noted that Risk Based Capital Requirements are a fundamental aspect of the ASX's prudential regulation of its Participants. The failure to comply with these regulations has the potential to adversely affect the financial stability of Participants. Accordingly, ASX views any breach of Risk Based Capital Requirements to be a matter of concern.