



ASX Circular

Date: 27 September 2010

Key topics

1. MF Global 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:

MF Global Australia Limited ('MF Global') contravened the following Operating Rules of Sydney Futures Exchange (the 'Operating Rules')*:

1. Operating Rule 3.1.13 by arranging the details of a potential trade between two or more parties without the market being made aware of all relevant details of the potential trade, and not in a manner specifically permitted under the Operating Rules ('Contravention 1');
2. Operating Rule 3.1.10(a) by disclosing to another party information about an order not known to the rest of the market and not specifically permitted otherwise under the Operating Rules ('Contravention 2'); and
3. Operating Rule 3.1.11 by withholding orders with an intent to obtain a counterparty/counterparties ('Contravention 3').

The contravening conduct occurred on 28 October 2009.

MF Global did not contest the contraventions before the Tribunal.

The Tribunal imposed a total fine of \$35,000 (plus GST).

The circumstances of the matter are detailed as follows:

Contravention 1

In a telephone conversation on 28 October 2009, a client contacted MF Global's Representative and gave instructions to buy 10 December 2009 Greasy Wool Futures Contracts ('GWZ9') and sell 10 February 2010 Greasy Wool Futures Contracts ('GWG0') at a -35 point spread, being the December/February Greasy Wool (21 Micron) Futures Spread Contract ('GWZ9G0').

At 11:07:37 on 28 October 2009, the Representative entered an order to sell GWZ9 and buy 10 GWG0 at a -35 point spread ('GWZ9G0'). The Representative placed these orders into the market incorrectly as the buy and sell orders were around the wrong way. Both orders traded (the 'Error Trades').

In subsequent telephone conversations on 28 October 2009, the Representative contacted the counterparty (the 'Counterparty') to the Error Trades during which they discussed the Error Trades.

At 12:31:06 the Representative placed an order into the market for 10 GWZ9G0 at -32 to reverse the error which was in accordance with the Representative's earlier discussion with the Counterparty.

In a telephone conversation that commenced at 12:31:10 on 28 October 2009 and being four seconds after the placement of the order, the Representative contacted the Counterparty to advise that the order was in the market.

Contravention 2

During the conversations with the Counterparty following the Error Trade on 28 October 2009, the Representative identified MF Global as a party to the Error Trades. In the telephone conversation that commenced at 12:25:56 on 28 October 2009, the

Representative contacted the Counterparty and disclosed that he intended to trade out of the error position.

At 12:31:06 on 28 October 2009, the Representative placed an order into the market for 10 GWZ9G0 at -32, which would reverse the Error Trades and was in accordance with the Representative's discussions with the Counterparty.

During his conversations with the Counterparty on 28 October 2009, the Representative disclosed to the Counterparty his intention to place an order to close out the open position in MF Global's error account, which had resulted from the earlier Error Trades. The Representative also disclosed the price at which he would trade out of the position. The details of the Representative's orders were not known to the market. The Representative placed the order to close out the position at 12:31:06 on 28 October 2009.

Contravention 3

The Representative held an error position which he intended to exit as a proprietary trade. The Representative allocated the trades resulting from the incorrect spread order to MF Global's error account.

The Representative did not place the order into the market and instead contacted the Counterparty to the Error Trades, in order to arrange the details of a reversing trade with the Counterparty.

At 12:31:06 on 28 October 2009, the Representative placed an order into the market for 10 GWZ9G0 at -32, which would reverse the error and was in accordance with the Representative's discussions with the Counterparty.

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

- (a) The illiquidity of the Wool Futures Market and therefore the minimal impact the misconduct had on the reputation and integrity of the ASX and the market and facilities it operates.
- (b) The disciplinary history of MF Global.
- (c) The seriousness of the contraventions.
- (d) The misconduct was reckless or at least negligent with respect to Contravention 2, however with respect to Contraventions 1 and 3 there was an element of intent.
- (e) MF Global fully cooperated with ASX Compliance in relation to the conduct of its investigation into the matter.
- (f) MF Global agreed at an early stage not to contest the contraventions, thereby saving time and costs.
- (g) The misconduct was an isolated instance.
- (h) The steps MF Global has taken to prevent a recurrence of the contraventions, including conducting internal training sessions relevant to these issues.

Disciplinary Tribunal Sanction Guidelines

As the contravening conduct occurred after 31 March 2008 (but prior to 1 August 2010)*, that being the effective time under the ASX Disciplinary Processes and Appeals Rulebook (the 'Rulebook'), the Tribunal was bound by the sanction guidelines (Annexure A to the Rulebook Procedures) in making its determination as to sanction in this matter.

In accordance with the sanction guidelines at Annexure A, the Tribunal determined that the three contraventions of the Operating Rules were appropriately classified as Level 2 (Serious Contraventions), for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). Given that the contraventions occurred as a result of one set of factual circumstances the Tribunal imposed a single aggregate penalty for the three contraventions.

The Tribunal considered the aggravating and the mitigating circumstances in each contravention, and imposed a total fine of \$35,000 (plus GST). The Tribunal considers that this fine 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 (administered by ASX) and the ASIC Market Integrity Rules (ASX 24 Market) (administered by ASIC). 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.