

ASX Circular

Date: 29 September 2010

Key topics

1. JP Morgan Markets Australia Pty Limited

Reading List

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

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## DISCIPLINARY MATTERS

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

JP Morgan Markets Australia Pty Limited ('JPM') contravened the following Operating Rules of Sydney Futures Exchange (the 'Operating Rules'):

1. Rule 3.1.16(a) by failing to act only in accordance with its client's instructions ('Contravention 1');
2. Rule 3.1.16(b), in that, it acted in a manner which had a detrimental effect, as determined by the Sydney Futures Exchange (the 'Exchange'), on the client's best interests ('Contravention 2'); and
3. Rule 3.1.20(a) in that it allocated trades to its client that had not been obtained pursuant to instructions previously obtained from that client ('Contravention 3').

JPM did not contest the contraventions before the Tribunal.

The Tribunal imposed a total fine of \$30,000 (plus GST).

The circumstances of the matter are detailed as follows:

### Contravention 1

On 29 September 2009, a Representative of the Participant (the 'Representative') was acting on behalf of a client (the 'Relevant Client'). At 8:30:20am the Representative entered an order on behalf of the Relevant Client to sell 200 3 Year Government Treasury Bond Futures ('YDZ99505') Call Options at 1.0 point (the 'Error Trade'). However, the Relevant Client's instructions were to sell 200 YDZ99505 Put Options at 1.0 point, not Call Options.

The Representative then entered an order to buy 100 3 Year Government Treasury Bond Futures paying 95.10 (the '100 YTZ9 Trade') as part of the Participant's error management strategy. Unsolicited offers were made by the Relevant Client to take the Error Trade and the 100YTZ9 Trade. The Representative allocated the Error Trade and the 100YTZ9 Trade to the Relevant Client's account.

By allocating the Error Trade and the 100 YTZ9 Trade to the Relevant Client's account the Representative failed to act in accordance with the Relevant Client's instructions.

### Contravention 2

The Exchange determined that the allocation of the Error Trade to the Relevant Client had a detrimental effect on the Relevant Client's best interests in that:

- a) the Error Trade had not been made in accordance with the Relevant Client's instructions;
- b) the Error Trade was between 5.5 and 19.5 basis points away from the underlying Market;
- c) the Error Trade which consisted of 200 Call Options was of a relatively high volume;
- d) ASX Trading Operations determined that the Error Trade fell into the Qualifying Error Range;
- e) ASX Trading Operations had unsuccessfully sought to have the trade cancelled on request from the Representative; and

- f) the execution and allocation of the Error Trade was made at a time when the market for Call Options was illiquid which means that it would have been difficult for the Relevant Client to trade those Options.

The Exchange determined that the allocation of the 100 YTZ9 Trade had a detrimental effect on the Relevant Client's best interests in that:

- a) the 100 YTZ9 Trade was made as part of the Representative's error management strategy to hedge the error;
- b) the 100 YTZ9 Trade had not been made pursuant to instructions from the Relevant Client; and
- c) the Representative's acceptance of the Relevant Client's offer to take both the Error Trade and the 100 YTZ9 Trade resulted in the Relevant Client entering into a transaction that he would not otherwise have entered into had it not been for the Error Trade.

JPM breached Operating Rule 3.1.16(b) in that it acted in a manner which had a detrimental effect, as determined by the Exchange, on the Relevant Client's best interests by allocating the Error Trade and the 100 YTZ9 Trade to the Relevant Client.

### Contravention 3

JPM contravened Operating Rule 3.1.20(a), by allocating the Error Trade and the 100 YTZ9 Trade to the Relevant Client although these trades had not been obtained pursuant to instructions previously obtained from the Relevant Client.

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

- a) JPM fully cooperated with ASX Compliance in relation to the conduct of its investigation into the matter.
- b) JPM did not contest liability or penalty with respect to the contraventions.
- c) The misconduct was an isolated instance.
- d) The misconduct was self-reported in a timely manner.
- e) JPM's confirmation that it reversed all brokerage in relation to these matters.
- f) The remedial measures JPM implemented to prevent any recurrence of the contravening conduct.
- g) The disciplinary history of JPM.
- h) Part of the misconduct was intentional - although the Error Trade was inadvertent the 100 YTZ9 Trade was entered with intent to risk manage the Error Trade.

### Disciplinary Tribunal Sanction Guidelines

As the contravening conduct occurred after 31 March 2008 (and 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.

\* 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.