



ASX Circular

Date: 30 October, 2009

Key topics

1. ETRADE Australia Securities 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 has determined the following:

ETRADE Australia Securities Ltd contravened ASX Market Rule 14.1.1 with respect to an order ('the Sell Order') that it placed on behalf of its client to sell 16 lots of OZ Minerals Limited Put Options ('OZLJI') which resulted in a market for OZLJI that was not both fair and orderly.

ETRADE did not contest the contravention before the Tribunal.

For this contravention the Tribunal imposed a fine of \$20,000 (plus GST).

The circumstances of this matter are detailed as follows:

On 30 July 2008, ETRADE's institutional client ('the Client') entered the Sell Order into ETRADE's IRESS Order System ('IOS') at \$0.0153. The Client had intended to enter the Sell Order at a price of \$1.53. The Sell Order was diverted to an ETRADE Designated Trading Representative ('DTR') for review. The DTR entered the Sell Order into the trading platform even though, at the time of the review, the Bid/Ask/Last for OZLJI was \$0.000/\$1.575/\$1.515 and various warning messages were displayed on the DTR's computer screen.

The Sell Order, rounded down to \$0.015, traded immediately, resulting in the sale of 16 Lots of OZLJI at \$0.015 ('the Trade') and a decrease in the price of OZLJI by \$1.495 or 99%. On 4 August 2008, the Client discovered the error and sought, unsuccessfully, to have the Trade cancelled and advised ASX that its client had sustained a loss as a result of the Trade.

Without admitting liability, ETRADE reached agreement with the Client in respect of compensation for losses incurred.

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

- a) The compensation paid by ETRADE to its Client, which has not sought further redress from ETRADE;
- b) ETRADE's full cooperation with ASX Investigations in the investigation of the matter;
- c) ETRADE's early agreement not to contest the matter;
- d) The importance of the strict obligation imposed on Market Participants by Market Rule 14.1.1, which requires that Participants do not do anything which results in a market for a product not being both fair and orderly;
- e) The importance of the role of DTRs in reviewing and preventing the entry of orders into the trading platform that could result in a market that was not fair and orderly;
- f) ETRADE's disciplinary history, having been sanctioned on eight previous occasions by the Tribunal;
- g) The steps taken by ETRADE to minimise the chances of such an event recurring;

- h) The relative illiquidity of the stock meant that the consequences of the contravention were limited; and
- i) The unintentional and inadvertent nature of the contravention.

Annexure A - 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 Disciplinary Tribunal Sanction Guidelines in making its determination as to sanction in this matter. The Tribunal determined that this contravention was classified as a Level 2 Serious Contravention, for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). Given the mitigating circumstances in this matter the Tribunal determined that a fine of \$20,000 was an appropriate sanction. The Tribunal is of the opinion that this sanction will act as a deterrent and appropriately serves the interests of ASX and market participants in maintaining a market that is fair, orderly and transparent.