



ASX Circular

Date: 16 November 2010

Key topics

1. ICAP Futures (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:

ICAP Futures (Australia) Pty Limited ('ICAP') contravened Sydney Futures Exchange Operating Rule 3.1.20(a)*. ICAP allocated trades to its client that had not been obtained pursuant to instructions previously obtained from that client.

ICAP did not contest the contravention before the Tribunal.

The Tribunal imposed a total fine of \$20,000 (plus GST).

The circumstances of the matter are detailed as follows:

- The contravention occurred on 12 April 2010. The times referred to below are times on 12 April 2010.
- At 14:53:01, ICAP's client (the 'Client') placed an order to sell 100 December 2010 90 Day Bank Accepted Bill Futures Contracts (IRZO) at 94.770 with an ICAP Representative (the 'Representative').
- At 14:53:08 the Representative entered (in error) an order into the Trading Platform to sell 1000 (rather than 100) IRZO at 94.770. This resulted in an immediate trade with an existing order in the market for 150 IRZO paying 94.770 (the 'Error Trade').
- Realising that an error had been made, the Representative cancelled the remaining 850 lots of the first order. The Representative then entered a second order to buy 50 IRZO paying 94.770 with the intention of exiting the error position. The order partially traded for 10 IRZO at 94.770.
- At 14:54:20, the Client placed an order with the Representative to sell a further 100 IRZO at 94.770.
- At 14:54:23 the Representative cancelled the remaining 40 lots of the second order. The Representative then entered a third order to sell 60 IRZO at 94.770.
- The Representative advised the Client by telephone that he had sold forty lots so far. The Representative allocated 40 lots of IRZO at 94.770, which were part of the Error Trade, to the Client's account.
- At 14:55:18 the remaining 60 IRZO were sold at 94.770. The Representative again contacted the Client via telephone and confirmed his fill of 100 IRZO at 94.770.

The Tribunal determined that the contravention of Operating Rule 3.1.20 arose where the ICAP Representative post-allocated 40 lots of IRZO to the Client's account that were not obtained pursuant to instructions already held from the Client.

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

- a) The misconduct was not indicative of an intentional disregard of the Operating Rules or an attempt to take advantage of the situation arising from the Error Trade, but it did indicate a lack of awareness of the correct procedure to follow in order to exit an error position within the requirements of the Operating Rules;

- b) ICAP did not self-report the incident (which is significant given the nature of the contravention and the circumstances involved);
- c) ICAP fully cooperated with ASX Compliance in relation to the conduct of its investigation into the matter;
- d) ICAP did not contest the contravention before the Tribunal;
- e) The misconduct was an isolated instance and not indicative of a systemic issue;
- f) ICAP's disciplinary history; and
- g) ICAP implemented various remedial measures in an attempt to prevent recurrence of the contravening conduct including updating its compliance manual and providing specific training to the Representative involved on the correct procedure for exiting error positions and the requirements under the Operating Rules in regard to post allocation.

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 contravention was appropriately classified as a Level 2 Serious Contravention, for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). The Tribunal is of the view that given the mitigating and aggravating circumstances in relation to this contravention a fine of \$20,000 (plus GST) is appropriate.

* 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.