



ASX Circular

Date: 15 November, 2007

Key topics

1. ComSec Trading 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:

ComSec Trading Limited ("ComSec") has been fined a total of \$40,000 plus GST in respect of the following contraventions:

- (i) Old ASX Business Rule 7.2.3.1 by allowing non-Designated Trading Representatives ("DTRs") to submit 49 Trading Messages into the Derivatives Trading Facility, CLICK;
- (ii) Old ASX Business Rule 7.5.2.3(b) by failing to ensure that Trading Messages submitted into CLICK were carried out by DTRs;
- (iii) Old ASX Business Rule 1.2.1.2 by failing to maintain records in sufficient detail to show particulars of 2,486 orders to trade Equity Securities;
- (iv) Old ASX Business Rule 7.3.2.5 by failing to maintain records in sufficient detail to show particulars of 548 orders to enter into Options Transactions.
- (v) ASX Market Rule 13.2.2 by allowing non-DTRs to submit 16 Trading Messages into CLICK;
- (vi) ASX Market Rule 13.1.3(b) by failing to ensure that Trading Messages submitted into CLICK were carried out by DTRs; and
- (vii) ASX Market Rule 4.10.1 by failing to maintain records in sufficient detail to show particulars of 3,001 orders to trade Equity Securities and to enter into Options Transactions.

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

- The circumstances and the duration of period over which the conduct occurred and went undetected;
- ComSec identified and self-reported the matter to ASX, and co-operated with ASX in the investigation and resolution of the matter;
- The remedial actions undertaken by ComSec upon the matters in issue being identified;
- The maintenance of accurate order records serves an important role, not only in protecting a Participant in the event of a dispute, but also as part of the Exchange's regulatory function;
- The entering of Trading Messages into the Trading Platform by DTRs is a critical and important measure for maintaining the integrity of the market, and facilitating the conduct of an orderly market;
- ComSec has only one client, its parent company the Commonwealth Bank of Australia ("CBA"), and no other client was affected; and
- ComSec has not previously been the subject of a report to the Tribunal.

The circumstances of this matter are as follows:

Between 12 March 2001 and 31 January 2005, ComSec allowed Trading Messages to be submitted into both SEATS and CLICK Trading Platforms by non-DTRs.

On 12 March 2001, ComSec established a computerised order record system account to act as a secondary market making account for CBA, its parent company and only client. ComSec subsequently traded in equities and options on behalf of CBA, with orders being received by ComSec via an electronic order management system, or by telephone.

In November 2004, ComSec completed an internal review of its operations, in which it was identified that the DTR approval function in its computerised order record system was not active, and therefore that trades placed in the system by persons who were not DTRs entered the market without the intervention of either a DTR or automated order vetting system. Deficiencies within ComSec's order records were also identified in respect of identifying details of the order giver/order taker, the DTR, and/or the time of the order.

Investigations undertaken by ComSec subsequently confirmed that during the period from 12 March 2001 to 10 March 2004, 49 trading messages were submitted into CLICK by non-DTRs, and that 2,486 equity order records and 548 option order records were not maintained in accordance with the rules. In the period from 11 March 2004 to 31 January 2005, it was confirmed that 16 Trading Messages were submitted into CLICK by non-DTRs, and that 3001 equity and option order records were not maintained in accordance with the operating rules.