



## ASX Circular

**Date:** 8 March, 2006

**Key topics**

1. State One Stockbroking Ltd

**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:

State One Stockbroking Ltd ("**State One**") has been fined \$5,000 (plus GST) for contravening old ASX Business Rules 1.2.1.2(a), (b) and (c) and old ASX Business Rule 1.2.1.3. In addition, State One has been fined \$10,000 (plus GST) for contravening old ASX Business Rule 5D.1.5. State One was also directed by the Tribunal to undertake an education and compliance program with respect to its compliance with the trading record requirements in Market Rule 4.10 for a period of six months.

In summary, State One had deficiencies in its order records for a number of trades executed on 10 March 2004 ("**the Relevant Day**") and failed to have in place appropriate arrangements to ensure that all proposed transactions by companies controlled by Employees of State One ("**the companies**") were first approved in writing.

For the purposes of these proceedings, State One did not contest the contraventions before the Tribunal.

The Tribunal noted that ASX's order record requirements are of fundamental importance in protecting trading participants in circumstances of dispute and in enabling ASX to properly perform its regulatory role. Further, the order record requirements are unequivocal in imposing the obligation upon participants for order records to be accurate and complete and not misleading or erroneous. In addition, the Tribunal noted that the requirement to obtain prior written approval of all proposed transactions by companies controlled by Employees of State One is important to monitor that appropriate trading is occurring within the market. The obligation imposed upon Responsible Executives, directors, partners or their delegates by old ASX Business Rule 5D.1.5 to give their approval in writing prior to each transaction by, amongst others, Employees or companies controlled by Employees is an important step in ensuring that the integrity of ASX's markets is maintained.

The circumstances of this matter are detailed as follows:

On the Relevant Day, the companies conducted trading in the ordinary fully paid shares of Legend Mining Limited. A number of the order records maintained by State One in respect of the transactions undertaken by the companies on the Relevant Day were deficient in that they:

- (a) failed to specify the time of the order;
- (b) failed to specify the volume of the order;
- (c) failed to specify the name of the person placing the instructions or the name of the person by whom those instructions were received; and

- (d) were not made immediately after the order or decision had been placed or made.

Pursuant to old ASX Business Rule 5D.1.5 State One, as a Participating Organisation, was required to at all times have in place appropriate arrangements to ensure that each proposed transaction (whether subsequently executed or not) by the companies was first approved in writing by a Responsible Executive, director or partner (or a person with written delegation for that responsibility) of State One.

The person at State One responsible for authorising the orders placed by the companies gave their approval by signing the order records at the beginning of the Relevant Day before the stocks to be purchased/sold were selected and the proposed volumes to be purchased/sold had been decided. This information was not recorded on the order records at the time the purported approval in writing was given. As such, there was no written approval by a Responsible Executive, director or partner (or a person with written delegation for that responsibility) of State One for each of the proposed transactions by the companies as required by old ASX Business Rule 5D.1.5(a). In addition, the purported approval in writing did not contain all of the information required by old ASX Business Rule 1.2.1 and did not include the date and time of approval, contrary to old ASX Business Rule 5D.1.5(b).

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

- (a) the failure by State One to have in place appropriate arrangements to ensure that all proposed transactions by companies controlled by its Employees were first approved in writing by those persons specified in old ASX Business Rule 5D.1.5 is a serious matter. Prior approval of trades by companies controlled by Employees is an important step in monitoring that appropriate trading is occurring within the market and that the integrity of ASX's markets is maintained;
- (b) issues concerning the requirement to obtain prior written authorisation for trading on employee's accounts was brought to State One's attention previously by ASX Compliance Services;
- (c) the circumstances and duration of the contraventions;
- (d) the action that State One has taken since the contraventions were identified; and
- (e) State One's prior history of compliance.