



ASX Circular

Date: 17 December 2008

Key topics

1. Lodge Partners Pty Ltd

Reading List

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

Contact

Jodie Maurer

Telephone

(02) 9227 0472

ASX Limited
 ABN 98 008 624 691
 Exchange Centre
 20 Bridge Street
 Sydney NSW 2000
 PO Box H224
 Australia Square NSW 1215

Internet: <http://www.asx.com.au>

No responsibility is accepted for any inaccuracies contained in the matter published.

DISCIPLINARY MATTERS

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

Lodge Partners Pty Ltd ("Lodge") has been censured for contravening ASX Market Rule 6.1.1 by failing to comply with the Risk Based Capital Requirements contained in Schedule 1A.2.10(1) of Schedule 1A to the ASX Market Rules, namely that on 24 January 2008 it failed to submit a return within the time prescribed by ASX.

Lodge did not contest the contravention before the Tribunal.

The Circumstances of this matter are as follows:

At 3.31 pm on 23 January 2008, ASX Prudential Risk Management ("PRM") sent an email ("the first email") to all Participants subject to the ASX risk based capital requirements in which each Participant was notified by email, including an email sent to Lodge, that it was required to lodge an ad-hoc return ("the ad-hoc return") prepared "as at close of business on Tuesday 22 January 2008", and "to be lodged with ASX by 12 noon (Sydney time) 24 January 2008".

At 3.44 pm on 23 January 2008, PRM sent a second email ("the second email") to all Participants subject to the ASX risk based capital requirements, in which each Participant was notified by email, including an email sent to Lodge, of a slight amendment to the first email, in that it was required to lodge an ad-hoc return prepared "as at close of business on Tuesday 22 January 2008", and "to be lodged with ASX by 12 noon (Sydney time) 24 January 2008".

Lodge, as a Participant, received the first email and the second email by reason of ASXMR Procedure 1.6.3 and a response to the contrary was not received by ASX.

As at 12.00 noon on 24 January 2008, Lodge had not lodged the ad-hoc return.

At 1.52 pm on 24 January 2008, PRM sent a further email ("the third email") to all Participants who had not lodged their ad-hoc returns by 12.00 noon (Sydney time) on 24 January 2008 deadline in the first email and the second email, including an email sent to Lodge. The third email requested that the Participant lodge the ad-hoc return "ASAP and no later than 4pm (Sydney time) today".

Lodge, as a Participant who failed to lodge an ad-hoc return with ASX by 12.00 noon (Sydney time) on 24 January 2008, received the third email by reason of ASXMR Procedure 1.6.3 and a response to the contrary was not received by ASX.

As at 4.00 pm on 24 January 2008, Lodge had not submitted the ad-hoc return.

At 5.23 pm on 24 January 2008, PRM received an email from Lodge, enclosing the ad-hoc return requested by ASX in the first email, the second email and the third email.

The Tribunal noted that Risk Based Capital Requirements are a fundamental aspect of the ASX's prudential regulation of its Participants. The failure to comply with those regulations has the potential to adversely affect the financial stability of Participants. Accordingly, ASX views any breach of Risk Based Capital Requirements to be a matter of concern.

The Tribunal further noted that the ASX request for an ad-hoc return from all Market Participants occurred at a time of high market volatility. Given this volatility, it is essential to the integrity of the market that such requests are responded to within the prescribed timeframes.

In determining sanction, the Tribunal took into account the following matters:

- (a) the circumstances and facts of the matter;
- (b) the failure to lodge an ad-hoc return within the times prescribed by ASX was unintentional;
- (c) Lodge's disciplinary history, having had only 1 previous unrelated disciplinary action recorded against it (ref: circular 222/05 – 2 May 2005);
- (d) Lodge's financial stability was not an issue in this matter;
- (e) Lodge co-operated with ASX Investigations in the investigation of the matter and elected not to contest the matter; and
- (f) The importance of ASX Market Rule 6.1.1 and complying with the Risk Based Capital Requirements contained in Schedule 1A.2.10 (1) of Schedule 1A to the ASX Market Rules, including where ASX requests information from Participants.