

Compliance in Focus

For Compliance Executives



ASX

AUSTRALIAN SECURITIES EXCHANGE

Winter 2009

Market Supervision — balancing the challenges

At the SDIA Conference in Sydney in May, ASX Chief Supervisory Officer Eric Mayne reinforced a message which ASX Markets Supervision (ASXMS) has been consistently conveying to listed companies and to Participants that market integrity is a vital element that engenders confidence. It is imperative, therefore, that directors and management recognise and embrace their responsibilities for setting the right tone from the very top. At every level in every organisation in our industry, we need integrity and an ethics-based culture - a corporate culture that looks beyond the question of "are we technically compliant?" to the broader question, "is this right?".

Mr Mayne also noted that there has been an increase in risk aversion by investors and by supervisors and regulators the world over, including in Australia. There is a strong sense that domestic stakeholders expect regulators and market supervisors to be tougher.

In his presentation to the same conference, ASXMS General Manager, Participants David Lawrence reinforced that, going forward, he would expect that Participants will continue to put in place tighter internal compliance controls. He also said that ASXMS's fundamental approach to facilitate compliance and remediate breaches rather than pursue disciplinary action as a first response has not changed. The approach ASXMS takes to issues is not one of "minimal tolerance of breaches" but one of "minimal tolerance of the untreated root cause of breaches".

Mr Lawrence also highlighted the pattern of increased ASXMS supervisory activity over the last 12 months, much

of which was driven by market volatility and changes to short sale legislation. This is particularly reflected in the levels of surveillance activity. In general, ASXMS commences more enquiries into insider trading than into market manipulation. There has been a gradual increase in ASXMS market manipulation enquiries from January 2008 leading up to a significant increase in the period August to October 2008. Many of these matters related to apparent price support enquiries and coincided with the decline in the market and the increase in pressure on margin loans and other financial arrangements.

Since October, the number of market manipulation enquiries has declined and the number of insider trading related enquiries has increased, that increase being quite marked in the January to March period.

The rapid increase in insider trading investigations commenced in the first three months of this year roughly coincides with the increase in the number and size of capital raisings in the market. That is not to say that there was an actual increase in insider trading, but there was an increase in the indicators of insider trading. This is an important distinction to be aware of when commentators comment upon apparent trends in insider trading based upon observed patterns of trading alone.

Mr Lawrence also highlighted some key messages delivered by the Disciplinary and Appeals Tribunals over the previous 12 months. There has been a significant hardening of the position of the Tribunals (comprising experienced industry professionals) in relation to ascribing of penalties to serious breaches of the various Operating Rules. The clear message

In this issue

Market Supervision — balancing the challenges	1
ASX Compliance Hot Topics	2
Investigations	5
Capital Monitoring	7
Surveillance	8
Futures Supervision Hot Topics	9
Articles of interest	10
Education & upcoming events	11

Market Supervision — balancing the challenges...cont.

coming from the Tribunals is a declining tolerance for serious breaches of the rules and increased penalties designed to deter others from future breaches and to reinforce the integrity of the markets.

In conclusion, Mr Lawrence set out ASXMS's key focus areas at present and going forward:

- Disorderly Markets
- Market Manipulation
- Management and Supervision

- Unprofessional Conduct
- T+3 Settlement Failure

ASXMS priorities and the messages from the Tribunals are all directed at market integrity. After all, the integrity of the markets is a key requirement in investor confidence, which is vital to a prosperous financial industry.

The full text of Eric Mayne's and David Lawrence's presentations are available on the [ASX website](#).

ASX Compliance Hot Topics

ASX Market Supervision Quarterly Activity Report

In addition to the quarterly ASX Group Monthly Activity Report, ASXMS now publishes a [quarterly activity report](#) specific to the activity within ASX Markets Supervision. The first two reports were released on 6 April 2009 and 6 July 2009 are available online and cover:

- Issuer and Participant activity;
- Market Surveillance;
- ASX Participant Monitoring;
- Futures Supervision and Capital Monitoring;
- Disciplinary Tribunal;
- ASIC outcomes arising from ASXMS referrals; and
- ASXMS Education and Research Program

Partly Paid Securities

ASX Market Rule change

On 6 April 2009, ASX issued [Market Circular 098/09](#) (and [Attachment](#)) and a [press release](#) regarding amendments to ASX Market Rule 2.10 and ASX Market Rule 7.1.2. The changes require that from 1 May 2009 Trading Participants have in place a client agreement with each Retail Client purchasing a Partly Paid Security (other than for a No Liability company). The changes became effective 1 May 2009.

Identification of Partly Paid Securities

On 17 April 2009, ASX Market Access issued [Market Information Bulletin 10/09](#) – "Identifying Partly Paid Shares in ReferencePoint Master List" which included details to enable Participants to identify ASX Quoted Partly Paid Shares issued by a company (excluding those of a No Liability company) in ReferencePoint Master List.

ASX monitoring of compliance – spot checks

ASX Compliance will review compliance with ASX Market Rule 7.1.2 by conducting periodic risk based reviews of buy orders entered into ITS. When responding to an ASX request for information Participants should take the following into consideration:

- Retail Client means a "retail client" as defined in Section 761GA of the Corporations Act.
- The new Rule does not apply to orders entered into the ITS platform prior to 1 May 2009.

Short Sales

Capability for short sale order and trade tagging in the Integrated Trading System ("ITS")

On 6 May 2009, ASX issued [ITS Circular 2009/009](#). The purpose of the circular was to advise Trading Participants, consistent with the ITS Open Interface Bulletin 18/08 issued 15 December 2008, that the technical ability, but not the obligation, for Trading Participants to tag short sale orders and trades in "real-time" would be available from Monday 18 May 2009. The Circular outlines:

- Capability for short sale order and trade tagging in ITS;
- Confirmation of status note indicator of stocks subject to an ASIC short sale ban; and
- Confirmation of the continued requirement to report Gross Short Sales.

Short sale reporting remains unchanged

Despite the technical software enhancements available from Monday 18 May 2009, the requirement to report each day's gross short sales in accordance with the current ASX Market Rules and Procedures remains unchanged regardless of whether a Participant is utilising the "real-time" tagging capa-

ASX Compliance Hot Topics...cont.

bility. Trading Participants must continue to report their daily Gross Short Sales via ASX Online (refer to [ASX Circular 562/08](#), [ASX Circular 567/08](#) and [ASX Circular 179/09](#)).

ASX monitoring of compliance – daily short sale reporting spot checks

Daily reviews are made by ASX Compliance to ensure Participants are reporting prior to the 9am deadline, that the positions are not being reported in suspended stocks and that the positions reported are consistent with a Participant's trading.

Close out of failed trades

Settlement Close out ASTC Settlement Rule 10.11.12

As foreshadowed in the Autumn 2009 edition of Compliance in Focus, ASTC Settlement Rule 10.11.12, which introduces the close-out requirement for any settlement shortfalls that remain after Batch Settlement on T+5, became effective Monday 30 March 2009. The first assessment period of the ASTC forced close out requirement occurred on Monday 6 April 2009.

Published references:

- [ASTC Bulletin P2009/037](#) – 5 February 2009
- [ASTC Bulletin P2009/058](#) – 19 February 2009
- ASX Market Rules Guidance Note 37 – 20 February 2009 (via [ASX Circular 049/09](#))
- Attachment to [ASTC Bulletin P2009/084](#) FAQ on Close out obligations.

ASX monitoring of compliance - ASTC Settlement Rule 10.11.12

ASX Compliance will review compliance with ASTC Settlement Rule 10.11.12 having regard to the following:

- **Operations Referral** – any failed settlement will be referred to ASX Compliance from ASX Operations on T+10 for further investigation.
- **Periodic review** – ASX Compliance will be completing periodic spot checks on Settlement Participants performance of their settlement obligations between T+5 and T+10.
- **Responding to ASX enquiries** – Settlement Participants will, amongst other things, be required to:
 - explain circumstances of delay in settlement;
 - identify any short selling in their response to ASX; and
 - provide evidence of attempts to close out the unsettled trades.
- **Continual improvement** - pursuant to a review of the facts

the Participant should outline any changes which they have determined as being required to enhance the supervisory framework. This should include an implementation timetable.

Appropriate Security Arrangements

ASX Market Rule 13.1.7 states that the ASX requires a Trading Participant to maintain and enforce "appropriate security arrangements which are designed to prevent unauthorised entry of Trading Messages". In addition, ASX Market Rule 13.3.3(b) requires a Trading Participant to maintain records of the security arrangements regarding access by an Authorised Person to a computer or other device connected to the Trading Participant's Open Interface Device. A key to fulfilling this requirement is the use of password-based user authentication mechanisms, and the implementation and maintenance of appropriate supervisory policies and procedures aimed at controlling system access.

Participants are expected to be able to demonstrate they have a firm-wide access control policy which, amongst other things, covers password management and other system access controls relating to all user types, be they Authorised Persons, Employees of the participant (e.g. DTR's, Advisers, etc.) or clients of the Participants as the end user. As a minimum this policy should be designed, implemented and monitored to cover:

- Allocation of passwords to new users (including management of temporary passwords);
- Maintenance of user passwords (e.g. resetting forgotten passwords);
- Minimum password strength requirements (e.g. minimum password length, etc.);
- Password confidentiality controls both by the user and by the participant (e.g. encrypted password storage);
- Password changing protocol;
- Login process and password controls that are appropriate to the access privileges granted to the login (i.e. a login with system administration or operating system access privileges would be expected to have much more stringent controls on it than a login with basic system functionality access);
- Where a participant uses a third party AOP system, gaining comprehensive assurances from the vendor that their system meets the participant's policy requirements;
- Ongoing compliance monitoring of compliance with the policy.

ASX Compliance hot topics...cont.

In forming and implementing this policy, participants are expected to **include all relevant implementation guidance** from the following sections of the *Australian Standard AS/NZS ISO/IEC 17799:2006 - Code of practice for information security management*:

- 11.2.3 User password management;
- 11.3.1 Password use; and
- 11.5.3 Password management system.

Importantly, if the Trading Participant's security around their AOP systems (including third party vendor systems) is inadequate and orders are passed into the market without their knowledge (for example, as a result of computer "hacking" or poor internal password controls), those orders will still carry their unique Trading Participant identifier and be their responsibility. Consequently, it is the Trading Participant's responsibility to ensure that this does not happen.

Where a third party AOP system is used the security arrangements are still the obligation of the Trading Participant. ASXMS expects that a Trading Participant will undertake its own due diligence to obtain a comprehensive assurance of the security integrity of the operating system and application from the system provider.

CHES settlement delays

When an ASTC Participant requests a delay to the CHES settlement process, ASX will seek an explanation from the Participant to identify whether or not the causes of the delay are systemic and what steps will be taken by the Participant to address the problem and prevent a recurrence.

Changes in Directors

Participants are frequently overlooking the requirement to notify ASXMS when directors are appointed or resign (refer ASXMR 4.3.2 and ACHCR 4.7.1). Details of a Participant's current directors can be accessed via ASXOnline. The notification of appointment or resignation can be completed via ASX Compliance Monitor ("ACM"). Recommended improvements are to ensure that the company secretarial area of a Participant is aware of the ASX notification obligations and, for the purpose of compliance with the ASX Operating Rules, ensure the Participant Compliance team is abreast of upcoming changes. Participant Compliance teams should also give consideration to the use of periodic checks of all the Participant's details on ASXOnline.

Trade Errors and Error Disputes

ASX Compliance follows up notifications of Error Disputes from Market Control to assess the cause of the error and whether the problem is systemic and could have been avoided. When responding to such enquiries Participants should give consideration to the following:

- explain circumstances of events;
- explain the infrastructure arrangements (i.e. system automation and manual controls);
- explain the circumstance leading to the non compliance;
- explain the identification mechanism and the operation of the escalation procedures; and
- continual improvement – pursuant to a review of the facts the Participant should outline any changes which they have determined as being required to enhance the supervisory framework (this should include an implementation timetable).

Sponsorship Agreements

Where a Sponsorship Agreement is signed under Power of Attorney, it is still the responsibility of the Sponsoring Participant under ASTC Settlement Rule 7.1.8, before the Sponsorship Agreement is executed, to:

- (a) make available to the applicant the full terms and conditions of the Sponsorship Agreement;
- (b) provide an explanation of the effect of the Sponsorship Agreement to the applicant; and
- (c) inform the applicant of the contact details of a representative of the Sponsoring Participant who can explain the effect of the Sponsorship Agreement.

Also under ASTC Settlement Rule 7.1.9 a Sponsoring Participant must, on the request of the Participant Sponsored Holder, provide a Participant Sponsored Holder with a copy of the executed Sponsorship Agreement:

- (a) within 3 Business Days of execution; or
- (b) at any time thereafter if requested by the Participant Sponsored Holder.

A Sponsoring Participant must notify the Participant Sponsored Holder that they are entitled to receive a copy of the executed Sponsorship Agreement.

ASX Compliance hot topics...cont.

ASX Compliance Monitor system – now live

ASX Compliance Monitor ("ACM") is an online compliance monitoring system which provides the primary mechanism for compliance-related interaction between ASX Compliance and Participants.

Following training sessions held for ACM in February 2009, Participants have been provided with access details to login and commence using the system. In the first instance, ACM is to be utilised for the submission of notifications to ASX Compliance.

In due course, ASX Compliance will send events to Participants via the ACM system. Some points to note:

- Going forward, all Notifications to be submitted to ASX Compliance should be sent via ACM. Should you have any queries or concerns at any time, please contact your ASX Compliance Adviser for assistance.

- Assistance can also be sought via the ASX Customer Service Desk during business hours, Monday to Friday 8.30am to 5.00pm (Eastern Standard Time) on 1800 682 484 (within Australia) or +61 2 9338 0000. Alternatively, an email may be sent to participants.online@asx.com.au with full details of your enquiry.
- ASX Compliance will be using ACM to initiate spot reviews. Participants required to complete these spot reviews will receive an email alert to prompt login to ACM, with the headline "ASX Compliance Monitor - Event is in Draft for Participant Action".
- Enhancements to the system will be processed progressively over time. Feedback received from Participants, both during the training sessions and following use of the system, has been registered for review. ASX Compliance welcomes continual feedback as use of the system increases.

Investigations

Participant Obligations – Overnight Trading

Participants should consider the following obligations when dealing in Cash Market Products outside the Trading Platform and between 07:00 to 16:12 (Pre_Open to Closing Single Price Auction ("CSPA") Session States) on a Trading Day.

Pursuant to ASX Market Rule 16.2.1, Participants must only deal in Cash Market Products in a Trading Platform in accordance with the parameters and times set out in Section 31 of the Rules, unless a specific exception applies under the ASX Market Rules. ASXMS understands it may be difficult for Participants to comply with this general obligation at all times, especially in circumstances where Participants have a large number of clients based in different parts of the world trading Products listed on the ASX Market. Therefore, an exception to Rule 16.2.1 is provided in ASX Market Rule 16.3.10 and corresponding Procedures, as detailed in this article.

ASX Market Rule 16.3.10 relevantly provides:

"Notwithstanding Rule 16.2.1, but otherwise subject to these Rules, Trading Participants may deal in Cash Market Products other than on a Trading Platform during the period set out in the Procedures on their own account or in

respect of instructions received by them during the period set out in the Procedures. Such dealing may be conducted at any price agreed between the relevant parties"

The periods during which Participants may deal in Cash Market Products other than on a Trading Platform are set out in ASX Market Rule Procedure 16.3.10. The overnight trading periods are:

- 16:12 to 17:00; and
- 17:00 to 07:00 the next Trading Day.

When Participants deal in Cash Market Products between 16:12 and 17:00, ASX Market Rule Procedure 16.3.10 limits the permitted circumstances in which Participants may transact to:

1. Genuine book squaring – a trade that completes an order received prior to 4:10 PM on the Trading Day;
2. Hedging trades – trades comprising a *bona fide* hedge including certain transactions involving the hedging of a Derivatives Market Contract transacted under ASX Market Rule 21.6;
3. Completion of an order that narrowly missed execution in the CSPA Session State;

Investigations...cont.

4. Error rectification; and
5. Put Throughs – a Crossing that results in the Cash Market Products the subject of the transaction being sold by a nominee that holds those Cash Market Products on behalf of a Funds Manager to another nominee that holds those Cash Market Products on behalf of the same Funds Manager.

In addition to the types of transactions identified above, Participants may effect overnight transactions in accordance with the ASX Market Rules for transactions such as Crossings in accordance with ASX Market Rule 17.7.1.

The ASX Market Rules prescribe particular reporting requirements for Participants when entering into overnight transactions under ASX Market Rule 16.3.10. These reporting requirements are contained in ASX Market Rule 16.12.3 and

corresponding Procedures and provide that:

- Where the overnight transaction(s) occur between 16:12 and 18:59 (Adjust, Adjust ON and Purge_Orders Session States) Participants are required to report the transactions to ASX immediately; and
- For overnight transactions that occur from 18:59 to 07:00 the next Trading Day Participants are required to report overnight transactions to ASX at any time prior to 09:45 the next (or same, if the transaction was entered into after midnight) Trading Day.

In addition to the timing of reporting the overnight transaction to ASX, Participants are required to identify the type of overnight transaction that was effected. The table below refers to some relevant Condition Codes that must be reported to ASX for overnight trades:

CONDITION CODE	TYPE OF TRANSACTION	
"L1"	Late trading between 16:12 to 17:00 - genuine book squaring transaction	
"L2"	Late trading between 16:12 to 17:00 - hedging transaction	
"L3"	Late trading between 16:12 to 17:00 - Completion of orders that narrowly missed execution between 16:10 and 16:12	
"L4"	Late trading between 16:12 to 17:00 - Error rectifications	
"L5"	Late trading between 16:12 to 17:00 - Put Throughs	
"LT"	Other late trading transactions	
	"XT"	Crossings

ASXMS encourages continued compliance with ASX Market Rules 16.2.1, 16.3.10 and 17.7.1 and related Procedures by limiting any overnight transactions to the types and in the manner detailed in the ASX Market Rules and Procedures.

Capital Monitoring

Changes to ACH Minimum Core Capital Requirements

On 7 April 2009 ACH issued [ACH Notice 015](#) advising Participants of proposed changes to ACH minimum Core Capital Requirements. For the benefit of Participants, these changes have been summarised below.

ACH has resolved to extend the timetable for the implementation of further increases to minimum core capital requirements for ACH Direct (Self-clearer) Participants as follows:

- Increase in minimum core capital to \$5,000,000 effective 1 July 2010; and
- Increase in minimum core capital to \$10,000,000 effective 1 January 2012.

ACH intends to simultaneously implement increases to minimum core capital requirements for ACH General (Third Party Clearer) Clearing Participants as follows:

- Increase in minimum core capital to \$10,000,000 effective 1 July 2010; and
- Undertake additional analysis with a view to further increasing the minimum core capital for ACH General Clearing Participants effective 1 January 2012;

Participants will also recall proposed Rule amendments foreshadowed in December 2008 (refer [ACH Notice 045/08](#)) which are intended to provide additional flexibility to further assist those Clearing Participants that are evaluating solutions to meet the minimum capital requirement. Those Rule amendments will now reflect the revised and phased timetable for compliance.

The standard regulatory clearance process required to give effect to the interim increase in minimum core capital to \$5 million and the additional Rule amendments to differentiate General Clearing Participant requirements and provide further flexibility around qualifying capital has been initiated. In due course, ASX intends to submit remaining Rule amendments to support the further increase in minimum core capital to \$10 million. In each instance, once regulatory clearance has been obtained, the finalised Rule amendments will be released to Participants.

Rule S1/S1A Authorisation

A Participant is required to calculate the risks that are incurred in the operation of its business. The calculation of

various risk amounts and the manner in which these amounts are calculated is specified in Rule S1/S1A and its Annexures. A Participant must be authorised for each of the methods of calculation of risk that it needs to use in calculating its Total Risk Requirement (as defined in the Operating Rules). In order to obtain authorisation, it is required to satisfy ASX/ACH that it has a sound understanding of the requirements and methods of calculating the risk. Depending on the authorisation the Participant requires, the process can be relatively simple or quite complex.

Participants are asked to ensure that when seeking such authorisation, they have a definitive business model in which they will operate. This helps to ensure that the authorisation process runs efficiently and in a timely manner for the benefit of both the Participant and ASX/ACH. It also ensures that when changes do arise, it will not significantly impact the progress that has already occurred in relation to this process.

Return Sign-Off Requirements

We would like to remind Participants about the sign-off requirements for capital returns that need to be submitted to Capital Monitoring under the Risk Based Capital Requirements.

As per ASX Market Rule S1A.2.10(2)(b) and ACH Clearing Rule S1.2.10(2)(b), returns must be certified by 2 or such other number of directors or partners as prescribed by ASX/ACH. Details of the number of directors or partners prescribed by ASX/ACH can be found in Section 4 of the Capital Liquidity Handbook.

For ad hoc returns, the return must be printed and signed by a director/partner prior to lodgement of the return. For capital liquidity returns and annual audited capital liquidity returns, the "Directors'/Partners' Statement Relating to the Accounts of a Participant" must be signed by the relevant number of directors/partners prior to lodgement of the return.

Although the signed copy of the ad hoc return or the Directors'/Partners' Statement does not need to be sent to ASX/ACH (unless specifically requested), it must be kept by Participants and available for inspection by ASX/ACH if required.

Please note that the Directors'/Partners' Statement must be signed by the actual director/partner whose name is noted in the electronic version of the return. Returns that have been executed by a person (non-director) under a power of attorney will not be accepted. Returns can be signed by an alter-

Capital Monitoring...cont

nate director (as defined under section 201K of the Corporations Act 2001) if the Participant has advised ASX Compliance of the appointment details of the alternate director and provided a statement that the Participant's constitution permits the appointment of the alternate director.

Therefore Participants should ensure that the director/partner whose name is recorded in the Directors'/Partners' State-

ment has actually signed off on the hard copy return prior to the electronic lodgement of the return to Capital Monitoring.

Section 4 of the Capital Liquidity Handbook also provides information on the lodgement and signatory requirements for the various types of returns.

Surveillance

Transactions Involving No Change in Beneficial Ownership

Participants are reminded to be conscious of 'wash sales', or transactions which may not involve a change in beneficial ownership. ASX Market Rules Guidance Note 1 provides some guidance to Participants on transactions involving no change in beneficial ownership in the context of ASX Market Rule prohibitions on manipulative trading.

Participants are required to consider all of the factors surrounding the circumstances of an order to assist it avoiding contravention of Market Rule 13.4. Whether a transaction involves a change in beneficial ownership is one factor Participants must have a regard to under Market Rule 13.4.2.

Participants are also reminded that such a transaction may involve a contravention of section 1041B of the Corporations Act. That section is concerned with creating a false or misleading appearance of active trading in a product, or with respect to the market for, or price for trading in, a product in circumstances including wash sales. Participants should be cautious about such transactions even though their purpose does not appear to be manipulative. Such transactions may nonetheless create a false or misleading appearance with respect to the market for, or price for trading in, or of active trading in, a security, regardless of their purpose.

In addition to ASX Market Rules Guidance Note 1, Participants should be aware of Taxpayer Alerts 2008/7 and Taxpayer Ruling 2008/1, issued by the Australian Taxation Office, which concern 'wash sale' arrangements for capital gains tax assets carried out to generate a capital loss. (See ATO [Taxpayer Alert TA 2008/7](#) "Application of Part IVA of the *Income Tax Assessment Act 1936* to 'wash sale' arrangements" and ATO [Taxation Ruling TR 2008/1](#) "Income tax: application of Part IVA of the *Income Tax Assessment Act 1936* to 'wash sale' arrangements").

While the issues addressed in TA 2008/7 and TR 2008/1 are matters for clients of Participants to consider, it may assist clients if Participants made them aware of these two ATO publications.

Some basic examples of transactions which Participants must be alert to and which may warrant further investigation by ASX Market Supervision are:

Client A to Client A
Client A to Client A Super Fund of which A is a beneficiary
Client A to Clients A and B joint account
Client A to A Pty Ltd of which A is a beneficial shareholder
A Pty Ltd to AB Pty Ltd of which A is a beneficial shareholder of both companies.

Advisers who receive instructions to execute a transaction which may not involve a change in beneficial ownership should consult their Compliance Manager.

ASX Futures Supervision

Changes to SFE Government Bond Expiry Position Concentration Limits

Since the December 2004 expiry, position concentration limits have been in place for both the Exchange's Ten Year Commonwealth Treasury Bond Contract and the Three Year Commonwealth Treasury Bond Contract. These limits were created to provide additional confidence in the integrity of the Exchange's markets by constraining, to the degree necessary, growing position concentration which the Exchange considered had the potential to negatively impact upon market orderliness at expiry. The limits apply to spot month net open positions at close of trading on the day before expiry (T-1) and are enforceable throughout the remainder of the

contract life (i.e. during the last trading day).

In announcing their introduction, the Exchange confirmed that the limits would be subject to ongoing review in the context of prevailing market conditions. The Exchange has noted a combination of factors observed in final-day trading patterns of these futures contracts and the issuance of additional liquidity into the underlying physical market. As a result, the Exchange considers that the opportunity now exists for the limits to be raised without impacting upon the orderliness of the market or expiry settlement procedures. Accordingly, the Exchange determined that bond contract expiry position concentration limits had been amended as follows for the June 2009 contract and onwards:

	SFE Three Year Commonwealth Treasury Bond Futures Contracts	SFE Ten Year Commonwealth Treasury Bond Futures Contracts
Maximum number of spot month net open positions to be held at close of trading on T-1 and the remaining life of the contract at a corporate 'group' level	25,000	19,000

Participants are reminded that these represent hard limits applicable to all market users, which are imposed at a corporate group level – except where an exemption has been obtained – and Participants are advised to notify their clients of the changes. The Exchange will continue to review these limits after each expiry in the light of observed changes in the liquidity of the underlying secondary market and trading patterns in the futures and options markets and may adjust these limits as and when considered appropriate.

Should you have any queries in relation to the above, please contact Nick Gaut, Senior Market Analyst, Futures Supervision on (02) 9227-0226 or at nick.gaut@asx.com.au.

Clarification of Approved Banks Criteria under Bank Downgrade Scenario

In SFE Notice 90/07, ASX announced a set of objective criteria that would be used to determine the Approved Banks for the purpose of 90 Day Bank Bill Futures delivery. The criteria required all Approved Banks to meet the following:

- A Bank must be AFMA Prime and have been so for at least 6 months; and
- A Bank must have a minimum average of AUD10 billion on issue in the domestic market as measured and reported in the monthly APRA Banking Statistics (being the sum of Acceptances of Customers and Certificates of Deposit) on a rolling 6 monthly basis.

Following the recent downgrade of Bank of Scotland and subsequent removal from the Approved Banks list, ASX has reviewed its policy in the event of an Approved Bank no longer meeting its requirements.

In the event that an Approved Bank no longer holds AFMA Prime Bank status, that bank will be removed from the Approved Bank list with immediate effect for any and all contracts available for trading on SYCOM®. In the event that the contract has expired but not settled, there will be no change to the Approved Banks list for that specific contract month. In this

ASX Futures Supervision...cont.

instance the non-eligible bank will be removed from the Approved Bank list after settlement is finalised.

AFMA Prime Bank Criteria

As outlined in the AFMA NTI Market Conventions (updated on 6th May 2009), AFMA will maintain a minimum of three Major Banks within the Prime Bank group. In the event that AFMA is required to reduce the minimum rating eligibility criteria, this may create a Prime Bank group with varying credit ratings.

Publication of the Approved Banks List

ASX will continue to review the list 6 weeks prior to expiry and publish the current list via an SFE Notice. The Approved Banks are also listed in the contract specifications and on the 90 Day Bank Bill Futures and Options [webpage](#).

Articles of interest

Securities and Futures Commission

Hong Kong Front Running - the SFC fined and banned an adviser for front running orders by a listed company to repurchase its own shares. The person bought the company's shares from the market and subsequently sold them to his client at a higher price. Nearly all of the sell orders matched with the client's buy orders and were almost always at the highest price of the day. It was evident that the adviser only traded in the company's shares on the days when his client repurchased its shares.

AUSTRAC

AUSTRAC has released a selection of [AML/CTF case studies](#) to demonstrate the role that transaction reports play in fighting crime.

2008 AML/CFT Compliance Reports – under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006, all reporting entities were required to submit a 2008 AML/CFT compliance report by 31 March 2009. Entities that missed the deadline should approach AUSTRAC with a view to negotiating a practical solution.

Designated services

AUSTRAC has released [Chapter 11 – Designated Services](#) of the AUSTRAC Regulatory Guide on the subject of designated services under the AML/CTF Act.

Customer Identification Requirements

AUSTRAC has released [Public Legal Interpretation No. 9: Customer identification requirements under the AML/CTF Act](#).

Treasury

Corporate governance and financial performance

Treasury's Working Paper 2009-02 [Corporate Governance and Financial Performance in an Australian Context](#) examines the relationship between a company's adoption of the ASX Corporate Governance Council's Principles of Good Corporate Governance and Best Practice Recommendations and its financial performance in the areas of shareholder performance, operating performance and one year sales growth for the top 300 Australian listed companies.

Short selling disclosure consultation

In March 2009 Treasury released a consultation paper entitled [Short Selling Disclosure Regime](#), which had sought input on a range of issues associated with the disclosure of short sale positions and transactions.

Education & upcoming events

Australasian Compliance Institute (ACI)

Risk 202 Workshops:

28 July (Queensland)

21 August 2009 (New South Wales)

Associate Intensive:

24 July 2009 (Western Australia)

7 August 2009 (Queensland)

CCP Residential:

12 August 2009 (New South Wales)

SDIA

SDIA Derivatives Accreditation Preparation Workshop (ADA1):

11 August 2009 (Sydney)

12 August 2009 (Melbourne)

Responsible Executive Exam preparation short course:

12 August 2009 (Melbourne)

25 & 26 August 2009 (Sydney)

Responsible Executive Refresher Workshop:

13 August 2009 (Melbourne)

For other education and training opportunities, see the [SDIA](#)

[website](#).

AFMA

Advanced OTC Documentation

30 July 2009 (Sydney)

Markets in Focus

6 August 2009 (Sydney)

Risk Management – the Fundamentals

19 August 2009 (Sydney)

For other education and training opportunities, see the [AFMA website](#).

Ongoing ASX education initiatives

For details, including dates, go to www.asx.com.au/classes.

For Accredited Derivatives Adviser exams go to www.asx.com.au/adaprogram.

Disclaimer – This newsletter has been prepared by ASX Limited (“ASX”) (ABN 98 008 624 691) and is intended to provide general information about topical issues in the securities and futures markets. The information and opinions contained in this newsletter have been compiled or arrived at from sources believed to be reliable and in good faith, but no representation or warranty, express or implied, is made as to their accuracy, completeness or reliability. ASX (including its subsidiaries, employees or representatives) does not accept liability whatsoever for any loss or damage arising in any way (including by way of negligence) from or in connection with any information provided or omitted, or from anyone acting or refraining to act in reliance on this information. All information contained in this newsletter is intended to assist and inform Participants and to keep them abreast of current issues. It is not intended as a consultation document, supplement to circulars or guidance notes or an expression of ASX, Australian Clearing House Pty Ltd, (ACH), ASX Settlement and Transfer Corporation Pty Ltd (ASTC), Sydney Futures Exchange Limited (SFE), SFE Clearing Corporation Pty Ltd and Austraclear Ltd (Austraclear) policy on their Rules, Regulations or Procedures. This newsletter is not to be relied upon as authoritative or taken in substitution for the exercise of judgment by any recipient. This newsletter may not be reproduced, redistributed or passed on to any other person or published, in whole or in part, for any purpose, without the prior written consent of ASX.

© Copyright 2008 ASX Limited ABN 98 008 624 691. All rights reserved 2008.