

**SFE Bulletin No:** 08/02  
**From:** SFE Corporation Limited ABN 74 000 299 392  
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### **DISCIPLINARY ACTION IMPOSED BY THE BUSINESS CONDUCT COMMITTEE**

Participants are advised, pursuant to General By-Law G.11.65, of disciplinary action taken by the Business Conduct Committee (BCC):

#### **PARTICIPANT 1**

It was identified that an Associate Participant failed to comply with:

- 1. Condition 2 of the Futures Brokers Licence**  
(Failure to notify ASIC that the Key person ceased to be an officer of the company);
- 2. General By-Law G.4.15(a) and Section 1213(1)(a) of the Corporations Act**  
(Failure to maintain correct accounting records);
- 3. General By-Law G.4.16(k) and Sections 1208 and 1266(7)(d) of the Corporations Act**  
(Failure to maintain accurate order records);
- 4. General By-Law G.4.13(f)**  
(Failure to comply in all respects with the Futures Law); and
- 5. Section 1172(b) of the Corporations Act**  
(Failure to issue a Proper Authority to its employees).

The above breaches were identified as part of a routine inspection of the records and procedures of the Participant.

In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant in respect of the identified breaches.

#### **PARTICIPANT 2**

It was identified that a Full Participant failed to comply with:

- 1. Trading Rule TR.8.16(b)**  
(Allowing unauthorised access to SYCOM®);

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2. **Trading Rule TR.4.5**  
(Failure to obtain approval as a SYCOM® Trader prior to accessing SYCOM®);
3. **Trading Rule TR.8.16(g)**  
(Allowing an unauthorised person access to SYCOM® data displayed on a SYCOM® workstation);
4. **General By-Law G.3.14(f) by virtue of a failure to comply with Section 1266(7) of the Corporations Act**  
(Failure to maintain accurate order records); and
5. **Trading Rule TR.8A.2(a) and (b)**  
(Failure to demonstrate prudent risk management procedures)

The enquiry identified that the Participant failed to apply to SFE for the transfer of an employee's registration from his previous employer and, therefore, allowed access to a person that was not approved as a SYCOM® Trader to SYCOM® and SYCOM data on a SYCOM® workstation. Further, it was identified that as the employee was trading under another employee's mnemonic, the records maintained by the Participant were therefore incorrect, as the person executing the trades was not recorded correctly.

In accordance with General By-Law G.11.36(b), the BCC imposed a fine of \$5,000 upon the Participant for the identified breaches.

In addition, in accordance with General By-Law G.11.36(f), the BCC imposed a fine of \$500 upon the Participant's employee for the identified breach set out in point 1 above.

## **PARTICIPANT 3**

It was identified that a Full Participant failed to comply with:

1. **General By-Law G.3.14(b)**  
(Failure to deal in a proper and efficient manner).

The enquiry identified that the Participant failed to deal in a proper and efficient manner on the basis of accepting an order instruction on an untaped electronic device (ie, mobile telephone).

In accordance with General By-Law G.11.36(b), the BCC imposed a fine of \$1,000 upon the Participant for the identified breach.

In addition, in accordance with General By-Law G.11.36(f), the BCC imposed a fine of \$1,000 upon the Participant's employee for the identified breach.

## **PARTICIPANT 4**

It was identified that an Associate Participant had failed to comply with:

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## **1. General By-Law G.4.16(g)**

(Failure to lodge Annual Audit Certificate by the due date).

A letter was sent to remind the Participant that the Annual Audit Certificate (the Certificate) was due to be lodged by 28 September 2001. The Participant was granted an extension of time to lodge its Annual Return until 2 October 2001. On 3 October 2001, the Certificate was received without a Directors' Declaration. Compliance staff contacted the Participant to advise that the Certificate was not lodged in the correct format and requested immediate lodgement of the Directors' Declaration. The Directors' Declaration was received by the SFE on 11 October 2001.

In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant as this was a repeat offence.

## **PARTICIPANT 5**

It was identified that an Associate Participant had failed to comply with the following:

### **1. General By-Law G.4.16(g)**

(Failure to lodge Annual Audit Certificate by the due date).

A letter was sent to remind the Participant that the Certificate was due to be lodged by 28 September 2001. On 2 October 2001, Compliance staff contacted the Participant to advise that the Certificate had not been received. The Participant advised the Certificate was awaiting finalisation by its auditors. The Certificate was received by the SFE on 5 October 2001.

In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant as this was a repeat offence.

## **PARTICIPANT 6**

It was identified that an Associate Participant had failed to comply with the following:

### **1. General By-Law G.4.16(g)**

(Failure to lodge Annual Audit Certificate by the due date).

A letter was sent to remind the Participant that the Certificate was due to be lodged by 28 September 2001. On 2 October 2001, the Annual Return was received without the Certificate. Compliance staff contacted the Participant to advise that the Certificate had not been lodged and requested immediate lodgement of the Certificate. The Certificate was received by the SFE on 2 October 2001.

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In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant as this was a repeat offence.

## **PARTICIPANT 7**

It was identified that an Associate Participant had failed to comply with the following:

- 1. General By-Laws G.4.28 and G.4.16(c)**  
(Failure to maintain minimum level of Net Tangible Assets).

The Participant lodged a letter dated 28 September 2001 to advise of its intention to resign as a Participant of the SFE. In its letter the Participant advised that since it last lodged its Return as at 30 June 2001, its Net Tangible Assets (NTA) had decreased to below the minimum required. However, the Participant did not propose to rectify the decrease in its level of NTA as it advised of its intention to cease trading as a Participant of the SFE.

In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant for the above breach.

## **PARTICIPANT 8**

It was identified that a Full Participant failed to comply with:

- 1. General By-Law G.3.16(p) and Section 1213(1)(a) of the Corporations Act**  
(Failure to properly maintain accounting records);
- 2. General By-Laws G.20(c) and G.22(a)**  
(Failure to receive margins within 24 hours for Australian domiciled clients);
- 3. General By-Law G.13.3**  
(Failure to properly "top-up" Clients' Segregated Account);
- 4. General By-Law G.3.16(n) and Section 1266(7) of the Corporations Act**  
(Failure to properly maintain internal records of instruction); and
- 5. General By-Law G.3.14(f)**  
(Failure to comply in all respects with the Futures Law).

The above breaches were identified as part of a routine inspection of the records and procedures of the Participant.

In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant in respect of the identified breaches.

## **PARTICIPANT 9**

It was identified that a former employee of a Full Participant failed to comply with:

- 1. General By-Laws G.3.16(n) and G.3.16(o), Sections 1208(1) and 1266(7) of the Act**

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(Failure to record orders correctly and failure to record all required details of orders);

2. **General By-Law G.29(a)**  
(Unauthorised Dual Trading);
3. **General By-Law G.3.14(b)**  
(Not acting in a proper and efficient manner);
4. **Trading Rules TR.11.5(f) and TR.11.5(i)**  
(Failure to input client identifiers into SYCOM®);
5. **General By-Law G.28(d)**  
(Failure to accurately complete error reports);
6. **Trading Rules TR.8.16(b) and TR.8.16(j)**  
(Failure to lock SYCOM® Workstation keyboard and thus allowing another trader unauthorised access to SYCOM® by logging on under his or her password); and
7. **General By-Law G.3.14(f)**  
(Failure to comply in all respects with the Futures Law).

An enquiry identified that a former employee of a Full Participant had failed to trade in a manner that was consistent with the SFE's Business Rules and the Corporations Act 2001 (Cwlth). The former employee had initiated orders for the Participant's error account whilst having knowledge of client orders, had failed to maintain adequate order records and by not locking the SYCOM® Workstation had allowed another SYCOM® Trader unauthorised access to SYCOM®.

In accordance with General By-Law G.11.36(f), the BCC imposed a fine of \$2,000 upon the former employee in respect of the identified breaches.

## **PARTICIPANT 10**

It was identified that a Full Participant failed to comply with:

1. **General By-Law G.37(a)**  
(Late submission of Reportable Position File).

The enquiry identified that the Participant failed to lodge the file by the due time and was not able to demonstrate that this was due to circumstances beyond its control.

In accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Participant as this was a repeat offence.

## **PARTICIPANT 11**

It was identified that a Full Participant had failed to comply with:

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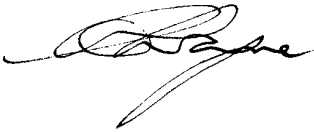
**1. General By-Law G.3.16(c)(ii)**  
(Failure to lodge Monthly Return by the due date).

As the Return had not been lodged on the due date, Compliance staff unsuccessfully attempted to contact the Participant to advise that the Return had not been received. On 3 December 2001, Compliance staff contacted the Participant to request immediate lodgement of the Return. The Participant advised that the Return was posted on 26 November 2001. As the Return had not been received, the Participant hand delivered a copy of the Return to the SFE. The Return was received on 3 December 2001 which was after the due date. The mailed Return has not been received from the Participant.

In accordance with General By-Law G.11.36(b), the Committee imposed a fine of \$250 upon the Participant as this was a repeat offence.

Please note that all fines imposed by the BCC, as noted above, are stated exclusive of Goods & Services Tax.

Should you have any queries please contact Michelle Wagner on 9256-0580 or [mwagner@sfe.com.au](mailto:mwagner@sfe.com.au)



Michelle Wagner  
**MANAGER, COMPLIANCE**

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