



SFE Bulletin No: 103/02

From: SFE Corporation Limited ABN 74 000 299 392

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**DISCIPLINARY ACTION IMPOSED BY THE BUSINESS CONDUCT COMMITTEE
& THE MARKET PRACTICES COMMITTEE**

Participants are advised, pursuant to General By-Law G.11.65, of disciplinary action taken by the Business Conduct Committee (BCC) and Market Practices Committee (MPC), since the last Bulletin.

PARTICIPANT 1

It was identified that the 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(b), the BCC imposed a fine of \$250 upon the Participant for the identified breach.

In determining the level of penalty, the Committee noted that this was a repeat offence by the Participant.

PARTICIPANT 2

INCIDENT ONE

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

- 1. Trading Rule TR.8A.2(c)**
(Failure to demonstrate prudent risk management procedures)

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The enquiry identified that although the Participant had amended its limits for its SYCOM® Traders on each SYCOM® Workstation to 99 following an inspection by the Exchange, it had not changed its limits for its SYCOM® Interfaces to 99.

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

INCIDENT TWO

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

1. **General By-Laws G.22(a), G46 and G.48**
(Failure to ensure that margin payments are received within the required time)
2. **Trading Rule TR.8A.2(c)**
(Failure to demonstrate prudent risk management)

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 for the identified breaches.

PARTICIPANT 3

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

1. **General By-Law G.3.16(q)(ii) and G.3.16(r)**
(Failure to ensure that the Client Agreement Form issued to clients contained all the minimum prescribed terms)
2. **General By-Law G.65(a)**
(Failure to ensure that the clients had executed a discretionary Client Agreement Form)
3. **General By-Law G.52(d)(i)**
(Failure to ensure that the person responsible for making trading decisions on behalf of clients was Registered Representative (Managed Discretionary Accounts))
4. **General By-Laws G.52(a)(i), G53 and G60**
(Failure to issue a disclosure document to its clients)
5. **General By-Law G.52(d)(ii)**
(Failure to appoint a person to supervise the Registered Representative (Managed Discretionary Account))
6. **General By-Law G.52(a)(iii) and G.62(vii)**
(Failure to make and retain documentation detailing enquiries made when forming the view that a Managed Discretionary Account is suitable for the client)
7. **General By-Laws G.3.14(f) by virtue of a failure to comply with Section 1266(7) of the Corporations Act 2001 and General By-Laws G.3.16(n) and G.62(vi)**
(Failure to maintain accurate order records)
8. **General By-Law G.3.14(f) by virtue of a failure to comply with Section 1210 of the Corporations Act 2001 and General By-Law G.3.16(q)(ii)**
(Failure to ensure that the client had executed the Client Agreement Form and received the Risk Disclosure Document prior to placing an order)

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9. **General By-Law G.3.14(f) by virtue of a failure to comply with Section 1142 of the Corporations Act 2001 (by virtue of the aiding and abetting provisions)**
(Alleged unlicensed dealing)

In accordance with General By-Law G.11.36(d), the BCC imposed only a Reprimand on the former employee of the Full Participant for the identified breaches, on the condition that the former employee re-sit the Registered Representative course and exam as soon as possible.

PARTICIPANT 4

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

1. **General By-Law G.52(d)(i)**
(Failure to ensure that the person responsible for making trading decisions on behalf of clients was Registered Representative (Managed Discretionary Accounts))
2. **General By-Laws G.52(a)(i), G53 and G60**
(Failure to issue a disclosure document to its clients)
3. **General By-Law G.52(d)(ii)**
(Failure to appoint a person to supervise the Registered Representative (Managed Discretionary Account))
4. **General By-Law G.52(a)(iii) and G.62(vii)**
(Failure to make and retain documentation detailing enquiries made when forming the view that a Managed Discretionary Account is suitable for the client)
5. **General By-Laws G.3.16(q)(ii) and G.3.16(r)**
(Failure to ensure that the Client Agreement Form issued to clients contained all the minimum prescribed terms)
6. **General By-Law G.65(a)**
(Failure to ensure that the clients had executed a discretionary Client Agreement Form)
7. **General By-Law G.3.14(f) by virtue of a failure to comply with Section 1142 of the Corporations Act 2001 (by virtue of the aiding and abetting provisions)**
(Alleged unlicensed dealing)
8. **General By-Laws G.3.14(f) by virtue of a failure to comply with Section 1266(7) of the Corporations Act 2001 and General By-Laws G.3.16(n) and G.62(vi)**
(Failure to maintain accurate order records)

In accordance with General By-Law G.11.36(d), the BCC imposed only a Reprimand upon the former employee of the Full Participant for the identified breaches, on the condition that the former employee re-sit the Registered Representative course and exam as soon as possible.

PARTICIPANT 5

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

1. **General By-Law G.27(a)(i)**
(Failure to retain audio tapes containing client instructions for a minimum three (3) month period)

In accordance with General By-Law G.11.3(d), the above breach was reported to the Exchange by the Participant.

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

PARTICIPANT 6

It was identified that the Clearing Participant failed to comply with:

1. **General Clearing By-Law 8.4**
(Clearing Participant to lodge April 2002 monthly statement of financial position in a form approved by the Committee within one calendar month of the last trading day of April)

As the return had not been lodged by the due date, Compliance & Surveillance staff contacted the Participant on 3 June 2002, to request immediate lodgement. The Return was received by the Exchange on 3 June 2002, which was after the due date.

In accordance with General Clearing By-Law 10.3(iv), the BCC imposed a Reprimand upon the Participant for the identified breach.

In determining the level of penalty, the Committee noted that this was a repeat offence by the Participant.

PARTICIPANT 7

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

1. **General By-Law G.4.16(d)(ii)**
(Failure to lodge monthly returns)

As the return had not been lodged by the due date, Compliance & Surveillance staff contacted the Participant on 3 June 2002, to request immediate lodgement. The Return was received by the Exchange on 3 June 2002, which was after the due date.

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

In determining the level of penalty, the Committee noted that this was a repeat offence by the Participant.

PARTICIPANT 8

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

1. **General By-Law G.4.16(d)(ii)**
(Failure to lodge monthly returns)

As the return had not been lodged by the due date, Compliance & Surveillance staff contacted the Participant on 3 June 2002, to request immediate lodgement. The Return was received by the Exchange on 3 June 2002, which was after the due date.

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

In determining the level of penalty, the Committee noted that this was a repeat offence by the Participant.

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PARTICIPANT 9

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

1. **General By-Law G.4.16(d)(ii)**
(Failure to lodge monthly returns)

As the return had not been lodged by the due date, Compliance & Surveillance staff contacted the Participant on 1 July 2002 to request immediate lodgement. The Return was received by the Exchange on 1 July 2002, which was after the due date.

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

In determining the level of penalty, the Committee noted that this was a repeat offence by the Participant.

PARTICIPANT 10

It was identified that the 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 for the identified breach.

In determining the level of penalty, the Committee noted that this was a repeat offence by the Participant.

PARTICIPANT 11

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

1. **General By-Law G.8.23**
(Failure to immediately notify the Exchange of the termination of two Registered Representatives)
2. **General By-Law G.3.16(p) and Section 1213(1)(a) of the Corporations Act 2001**
(Failure to maintain correct accounting records)
3. **General By-Law G.3.16(n) and Section 1266(7) of the Corporations Act 2001**
(Failure to maintain accurate order records)
4. **Section 1209(5)(a) of the Corporations Act 2001 and thus General By-Law G.3.16(u) and G.13.1**
(Withdrawal of funds from Clients' Segregated Account without the written direction of the client)
5. **General By-Law G.28(d)**
(Failure to maintain accurate error reports)

Following the previous compliance inspection conducted of the records and procedures of the Participant, the BCC directed a follow-up inspection be undertaken.

As a result of the follow-up routine compliance inspection, the above areas of non-compliance were identified.

S F E B U L L E T I N C O N T I N U E D

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

PARTICIPANT 12

It was identified that the Local Participant failed to comply with:

- 1. General By-Law G.5.15(b)**
(Failure to deal in a proper and efficient manner)

The enquiry identified that the Participant had entered orders into SYCOM® without a genuine intent to trade.

In accordance with General By-Law G.11.36(b), the MPC imposed a fine of \$500 upon the Participant for the identified breach.

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



MICHELLE WAGNER
MANAGER, COMPLIANCE & SURVEILLANCE

23 SEPTEMBER 2002

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