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

Participants are advised, pursuant to Operating Rule 5.12 of disciplinary action taken by the Business Conduct Committee (BCC) and the Market Practices Committee (MPC), since the last Bulletin. Participants will note that disciplinary action taken prior to March 11 2004 was in accordance with former General By-Law G.11.36 and that from March 11 2004 is in accordance with Operating Rule 5.6.1.

PARTICIPANT 1

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

1. **General By-Law G.29(b), by virtue of a failure to comply with General By-Law G.9.8**
[Failure to meet the conditions of a granted exemption in relation to personal account trading];
2. **Trading Rule TR.8A.2(a)**
[Failure to set maximum volume per order and price change limits for SYCOM® Traders];
3. **General By-Laws G.3.16(u) and G.13.1 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1209(4A) of the Act**
[Failure to correctly designate Clients' Segregated Accounts];
4. **General By-Laws G.3.16(q)(ii) and G.3.16(r)**
[Failure to obtain an exemption in order to insert a limitation of liability clause in the Client Agreement Form];
5. **General By-Law G.3.16(q)(i) and General By Law G.3.14(f), by virtue of an apparent failure to comply with Section 1210 of the Act**
[Failure to provide a Risk Disclosure Document];
6. **General By-Law G.28(d)**
[Failure to maintain accurate error reports];

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7. **General By-Law G.3.16(n) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(7) of the Act**
[Failure to maintain order records]; and
8. **Trading Rule TR.11.5**
[Failure to enter client identifiers].

The above failures to comply were identified as part of a routine compliance inspection of the records and procedures of the Full Participant.

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore:

- (i) in accordance with General By-Law G.11.36(b), the BCC imposed a \$1,000 fine upon the Full Participant for the failures to comply set out in points 1 and 2, and determined that the imposition of the \$1,000 fine was conditional upon the Full Participant conducting pro-active compliance testing on a quarterly basis and notifying the Exchange of the results of this testing; and
- (ii) in accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Full Participant for the failures to comply set out in points 3 to 8.

In reaching its decision, the BCC was particularly concerned that the failures to comply with the conditions of two previously granted exemptions appeared to indicate a disregard for the conditions specific to the exemptions held by the Full Participant and an apparent lack of attention to detail in meeting these conditions.

PARTICIPANT 2

INCIDENT ONE

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

1. **Trading Rules TR.8A.1(b) and TR.8A.2(a)**
[Failure to set prudent Risk Management Limits];
2. **General By-Law G.3.16(n) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(7) of the Act**
[Failure to maintain internal records of instruction]; and
3. **Trading Rule TR.11.6**
[Failure to enter client identifiers within the prescribed period].

The above failures to comply were identified following a routine inspection of the Full Participant's records and procedures.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(g), the BCC Brought the identified failures to comply to the Notice of the Full Participant.

In reaching its decision the BCC noted that the Full Participant had knowingly set its SYCOM® Trader limits to their maximum levels. However, the BCC was of the view that the limits were imprudent and did not reflect that adequate Risk Management procedures had been established. In this regard the BCC noted that the Full Participant, since the inspection, had amended its risk management procedures and undertaken further training relating to the functionality of SYCOM® Workstations.

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The BCC also took into consideration that neither the Full Participant nor the market appeared to have been impacted due to the limits being set at maximum levels during the period of the inspection. Finally, the BCC noted that the Full Participant had an excellent compliance history, with no previous disciplinary action having been taken against it.

INCIDENT TWO

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

1. **Trading Rule TR.18 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(4) of the Act**
[Duty not to Disclose].

The above failure to comply was identified following a routine compliance inspection of the records and procedures of the Full Participant. The enquiry identified that an employee of the Full Participant had disclosed information that was not available to the rest of the market, particularly stop levels of orders held by that Full Participant.

The MPC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(g), the MPC Brought the identified failure to comply to the Notice of the Full Participant and its Representative.

In reaching its decision, the MPC noted that the Representative had an excellent compliance record and had not previously been the subject of disciplinary action.

INCIDENT THREE

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

1. **Trading Rule TR.18 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(4) of the Act**
[Duty not to Disclosure].

The above failure to comply was identified following a routine trading review by Compliance & Surveillance staff. The enquiry identified that an employee of the Full Participant had disclosed information that was not available to the rest of the market in respect of the price and volume in order to facilitate a trade between two of its Clients.

The MPC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(c), the MPC resolved to impose a fine of \$1,000 upon the Full Participant for the identified failure to comply.

In reaching its decision, the MPC noted that the Full Participant had disciplinary action taken against it for a similar breach in October 2003.

PARTICIPANT 3

INCIDENT ONE

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

1. **Trading Rule TR.18 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(4) of the Act**
[Duty not to Disclose].

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The above failure to comply was identified as part of an investigation into a complaint received from another Full Participant. The enquiry identified that the Full Participant had disclosed order information to a client that was not known by the rest of the market in the form of an opinion, however, that the Full Participant's 'opinion' was based on knowledge of orders already held.

The MPC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(g), the MPC Brought the identified failure to comply to the Notice of the Full Participant and its Representative.

In reaching its decision the MPC noted that another Full Participant was disadvantaged and was unable to participate at the price executed due to the speed between the buy and sell orders being released.

INCIDENT TWO

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

1. **General By-Law G.26(b)**
[Post Allocation].

Pursuant to General By-Law G.11.3(d), the Full Participant notified the Exchange of its failure to act in accordance with General By-Law G.26(b) on the basis that it post allocated a trade it executed in error, to a client.

The MPC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(d), the MPC imposed a Reprimand upon the Full Participant for the identified failure to comply.

In reaching its decision, the MPC noted that the above failure to comply was generally regarded as a serious contravention of the Exchange's Business Rules. The MPC gave lengthy consideration to this matter noting that the issue arose out of what appeared to be a genuine error in a relatively illiquid spread market, also that it was self reported in a timely manner and the market was not adversely impacted. In addition, the MPC acknowledged the Full Participant's attempts to exit the error through the market, noting also that the Full Participant did not solicit an order from the client to whom the trade was allocated.

However, the MPC expressed grave concern with respect to the post allocation of trades as a means of lessening the commercial impact of errors. With regard to this point the MPC expressed the view that punitive results for non-compliance with Exchange's Business Rules should never be subject to cost/benefit comparisons with respect to possible commercial impact.

INCIDENT THREE

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

1. **Trading Rule TR.17.1(c)(vi)**
[Seeking to Avoid Trading with Other Parties with the Intent to Cross].

The above failure to comply was identified following a routine trading review by Compliance & Surveillance staff. The enquiry identified that the Full Participant had withheld an order in order to cross by creating orders on the screen, which were then released when the time was deemed appropriate in order to form a cross.

The MPC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(d), the MPC imposed a Reprimand upon the Full Participant for the identified failure to comply.

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In reaching its decision, the MPC was of the view that the Full Participant's failure to represent orders in the market, either wholly or in part, combined with the apparent pre-preparation of orders to facilitate their simultaneous entry into the market, indicated that the Full Participant had sought to avoid trading with other parties with the intent to cross.

INCIDENT FOUR

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

1. **Trading Rule TR.18 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(4) of the Act**
[Duty not to Disclose].

The above failure to comply was identified following a routine trading review by Compliance & Surveillance staff. The enquiry identified that the Full Participant had disclosed order information on two (2) separate occasions to clients that was not known by the rest of the market.

The MPC believed that the failures to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(d), the MPC imposed a Reprimand upon the Full Participant for the identified failures to comply.

In reaching its decision, the MPC was of the view that the Full Participant's Representative had, on two (2) occasions, disclosed information with regard to client instructions that was not generally known to the market.

INCIDENT FIVE

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

1. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1258 of the Act**
[Dealing of Futures in a manner not permitted by the Business Rules of the Exchange].

The above failure to comply was identified following a review of Exchange for Physical transactions by Exchange staff. The enquiry identified that the Full Participant had executed two (2) Exchange for Physical transactions where the physical transactions were not *bona fide*.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(c), the BCC imposed a \$10,000 fine upon the Full Participant for the identified failure to comply.

In reaching its decision, the BCC noted that two pairs of Exchange for Physical transactions were executed between the same parties - each pair trading an identical physical back and forth, first for futures in the spot contract, then for an equal number of futures in a forward contract. The BCC noted that this left no net physical transaction between the parties, but effected a pair of roll trades in a situation where there were substantial queues in the market, and in which on-market trading would have required both parties (rather than one) to cross the spread.

The BCC was of the view that as there was no net physical transfer behind these transactions, no *bona fide* physical transaction existed and the trades could not be performed as valid Exchange for Physical transactions. The transactions were therefore in contravention of SFE Business Rules by virtue of failure to comply with Section 1258 of the Corporations Act.

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INCIDENT SIX

As part of a routine compliance inspection of the records and procedures of the Full Participant, it was identified that the Full Participant failed to comply with:

1. **Trading Rules TR.8A.1(b) and TR.8A.2(b)**
[Failure to demonstrate prudent risk management procedures for SYCOM® Traders];
2. **General By-Laws G.3.16(u) and G.13.1 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1290 of the Act**
[Maintaining Staff Clients' Monies in Clients' Segregated Account];
3. **General By-Law G.3.16(c)**
[Failure to Correctly Disclose Monies in the Statement of Client Funds];
4. **General By-Laws G.3.16(q)(ii) and G.3.16(r) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1210 of the Act**
[Client Agreement Documentation not Executed];
5. **General By-Laws G.3.16(q)(ii) and G.3.16(r) and Trading Rule TR.27.1(c)**
[Schedule L not Executed];
6. **General By-Law G.3.16(n) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(7) of the Act**
[Failure to Properly Maintain Internal Records of Instruction]; and
7. **Trading Rules TR.11.5(f) and TR.11.5(i)**
[Failure to Enter a Client Identifier].

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore:

- (i) in accordance with Operating Rule 5.6.1(d), the BCC imposed a Reprimand upon the Full Participant for the identified failure to comply set out in point 1 above; and
- (ii) in accordance with Operating Rule 5.6.1(f), the BCC Brought the identified failures to comply set out in points 2 to 7 above to the Notice of the Full Participant.

In reaching its decision, the BCC took into consideration the fact that the failures to comply were generally administrative, technical or inadvertent in nature. The BCC further noted that the risk to and impact on the Full Participant's clients and markets generally, in relation to the failures to comply, was low.

PARTICIPANT 4

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

1. **General By-Laws G.13.1 and G.3.16(u) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1209(8) of the Act**
[Failure to invest Client's Segregated Funds in Accordance with the Act].

Pursuant to General By-Law G.11.3(d), the Full Participant notified the Exchange of its failure to issue and receive all of the required acknowledgments for investing monies from the Clients' Segregated Account in accordance with the Clients' Segregated Account provisions.

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(g), the BCC Brought the identified failure to comply to the Notice of the Full Participant.

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In reaching its decision, the BCC took into consideration the fact that pursuant to General By-Law G.11.3(d), the matter was self-reported in a timely manner by the Full Participant. The BCC also noted that the clients' funds did not appear to be at risk at any time and that the matter was rectified immediately.

PARTICIPANT 5

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

1. **General By-Law G.22(a)**
[Failure to call for Initial Margin requirements];
2. **Trading Rules TR.8A.1(a), (b) and TR.8A.2(b)**
[Failure to demonstrate prudent risk management procedures for SYCOM® Traders];
3. **Trading Rule TR.27.4(a)**
[Failure to demonstrate prudent risk management procedures for client accounts];
4. **General By-Law G.3.16(i)**
[Failure to notify the Exchange of a change in Directors];
5. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1176(6) of the Act**
[Failure to move revoked Proper Authorities to a separate part of the Proper Authority Register];
6. **General By-Laws G.3.16(q)(ii) and G.3.16(r)**
[Failure to comply with the requirements of Part B of the First Schedule];
7. **General By-Law G.28(d)**
[Failure to maintain accurate error reports];
8. **General By-Law G.3.16(n) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(7) of the Act**
[Failure to properly maintain internal records of instruction]; and
9. **Trading Rules TR.11.5(f) and (i)**
[Failure to enter a client identifier].

The above failures to comply were identified as part of a routine compliance inspection of the records and procedures of the Full Participant.

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore:

- (i) in accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Full Participant for the identified failures to comply set out in points 1 to 3 above; and
- (ii) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failures to comply set out in points 4 to 9 above to the Notice of the Full Participant.

In reaching its decision, the BCC took into consideration the fact that the breaches noted above were generally administrative, technical or inadvertent in nature. The BCC further noted that there had been no apparent intent in relation to the failures to comply and that the risk to and impact on the Full Participant's clients and the market generally, in relation to the failures to comply, was low. The BCC also noted that the Full Participant had effectively self reported the failure to comply in relation to the calling of margins on a timely basis.

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PARTICIPANT 6

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

1. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1142 of the Act (by virtue of Section 79 of the Act)**
[Unlicensed Dealing]; and
2. **General By-Law G.22**
[Failure to ensure the receipt of Margins within the required time period].

The above failures to comply were identified as part of an investigation into a complaint made by a client concerning the Full Participant's actions on its account in 2001.

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore:

- (i) in accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Full Participant for the identified failure to comply set out in point 1;
- (ii) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failure to comply set out in point 1 to the Notice of the former Representative; and
- (iii) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failure to comply set out in point 2 to the Notice of the Full Participant.

In relation to the identified unlicensed dealing by a former Representative of the Full Participant, it was noted that instructions had been placed on two occasions by a person not authorised to place instructions on the client's account. In relation to the identified failure to ensure receipt of margins within the required time period, it was noted that two separate accounts remained on margin call for four (4) and five (5) business days respectively.

The BCC noted that the penalty imposed upon the Full Participant in this instance would normally have been more severe. It was noted that compliance procedures were not sufficient to ensure that the Full Participant's former Representatives only accepted orders from authorised persons. However, in determining the level of penalty, the BCC took into consideration the following:

- that the former Representative of the Full Participant had not appeared to knowingly aid the unlicensed dealing;
- that this was the second offence where the Full Participant has been found to have failed to receive margins and to have aided in unlicensed dealing. However, it was also noted that these events occurred over the same time period as the first offences;
- that the Full Participant had excess funds in its Clients' Segregated Account therefore, no clients' funds were at risk; and
- that the Full Participant had taken substantive steps since the time of these breaches to improve its compliance procedures and environment. In addition, the Full Participant has recently been subject to a Compliance Undertaking.

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PARTICIPANT 7

INCIDENT ONE

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

1. **Clearing By-Law 44.4**
[Failure to Pay the Daily Settlement Amount].

The above failure to comply was identified as a result of the Full Participant's failure to make payment of its Daily Settlement Amount within the prescribed time.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(b), the BCC imposed a \$2,000 fine upon the Full Participant.

In reaching its decision, the BCC noted that the Full Participant's banker was responsible for the delay, however, the BCC was of the view that the daily settlement of the Full Participant's clearing obligation is a fundamental responsibility of the Full Participant and that the delay in the receipt of funds was unacceptable. Further, the daily settlement amount was of a high value and the funds were not received until approximately three hours after the due time.

INCIDENT TWO

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

1. **General By-Law G.3.16(c)**
[Failure to correctly disclose monies in the Statement of Client Funds].

The above failure to comply was identified as part of a limited compliance inspection of the accounting records and procedures of the Full Participant.

The BCC believed that the above failures to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Full Participant for the identified failure to comply.

In reaching its decision, the BCC took into consideration the fact that the breach noted above was administrative, technical and inadvertent in nature. The BCC further noted that there had been no apparent intent in relation to the breach and that the risk to and impact on the Full Participant's clients and the market generally, in relation to the breach, was low.

INCIDENT THREE

It was identified that Full Participant failed to comply with:

1. **General By-Law G.37(a)**
[Late Lodgment of Reportable Positions File].

The above failure to comply was identified as a result of the Full Participant's failure to submit its Reportable Positions File within the prescribed time.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(c), the BCC imposed a \$1,000 fine upon the Full Participant for the identified failure to comply.

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In reaching its decision, the BCC noted it had imposed a fine of \$500 upon the Full Participant for a similar breach in September 2003. The BCC also noted the importance of timely provision of this data to the Exchange's Compliance & Surveillance department in order to conduct the Exchange's market surveillance function.

INCIDENT FOUR

It was identified that Full Participant failed to comply with:

1. **General By-Law G.37(a)**
[Late Lodgment of Reportable Positions File].

The above failure to comply was identified as a result of the Full Participant's failure to submit its Reportable Positions File within the prescribed time.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(c), the BCC imposed a \$1,000 fine upon the Full Participant for the identified failure to comply.

In reaching its decision, the BCC noted it had imposed a fine of \$1,000 upon the Full Participant for a similar breach in November 2003, although at the time that the above matter occurred this decision had not been made. The BCC also noted the importance of timely provision of this data to the Exchange's Compliance & Surveillance department in order to conduct the Exchange's market surveillance function.

PARTICIPANT 8

INCIDENT ONE

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

1. **General By-Laws G.3.16(q)(ii) and G.3.16(r) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1210 of the Act**
[Client Agreement documentation not executed];
2. **Trading Rules TR.8A.1(b) and TR.8A.2(a)**
[Failure to demonstrate prudent risk management procedures for SYCOM® Traders];
3. **Trading Rule TR.27.4(a)**
[Failure to demonstrate prudent risk management procedures for client accounts];
4. **General By-Laws G.3.16(u) and G.13.1 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1209(4) of the Act**
[Failure to deposit money into Clients' Segregated Account];
5. **General By-Law G.3.16(n) and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(7) of the Act**
[Failure to properly maintain internal records of instruction];
6. **General By-Law G.28(d)**
[Failure to maintain accurate error reports];
7. **Trading Rules TR.11.5(f) and (i)**
[Failure to enter a client identifier]; and
8. **General By-Law G.25(j)**
[Failure to maintain evidence of the physical transaction of an Exchange for Physical transaction].

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The above failures to comply were identified as part of a routine compliance inspection of the records and procedures of the Full Participant.

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore:

- (i) in accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Full Participant for the identified failures to comply set out in points 1 to 3 above; and
- (ii) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failures to comply set out in points 4 to 8 above to the Notice of the Full Participant.

In reaching its decision, the BCC took into consideration the fact that the breaches noted above were generally administrative, technical or inadvertent in nature. The BCC further noted that there had been no apparent intent in relation to the breaches and that the risk to and impact on the Full Participant's clients and the market generally, in relation to the breaches, was low.

INCIDENT TWO

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

1. **General By-Law G.3.16(c)(ii)**
[Late Lodgement of Monthly Return].

The above failure to comply was identified as a result of the Full Participant's failure to submit its January 2004 Monthly Return within the prescribed time.

The Delegate of the BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.8(b)(ii), the Delegate of the BCC Brought the identified failure to comply to the Full Participant's Notice.

PARTICIPANT 9

INCIDENT ONE

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

1. **Trading Rule TR.18 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(4) of the Act**
[Duty not to Disclose].

The above failure to comply was identified as part of an investigation into a complaint received from another Full Participant. The enquiry identified that the Full Participant had disclosed information regarding orders it held on nine (9) separate occasions to clients that was not known by the rest of the market.

The MPC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(b), the MPC imposed a \$10,000 fine upon the Full Participant for the identified failure to comply.

In reaching its decision, the MPC expressed deep concern at the blatant nature of the nine (9) identified instances of disclosure and made specific mention of its grave reservations with respect to the potential impact the disclosures may have had on the market.

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In addition, the MPC noted that while the Full Participant showed contrition and appeared to be undertaking remedial action, the identified breaches were of an extremely serious nature with possibly wide-ranging repercussions. The MPC noted that Participants are ultimately responsible for the actions of their Representatives and that consistent with ongoing licence obligations to adequately train and supervise their employees and Representatives, the MPC expects Participants to have processes in place for disciplining those individuals who cause the Participant to incur penalties as a result of a breach of the Exchange Business Rules.

INCIDENT TWO

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

1. **Trading Rule TR.18 and General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1266(4) of the Act**
[Duty not to Disclose].

Pursuant to General By-Law G.11.3(d), the Full Participant notified the Exchange that it had disclosed information regarding orders it held on three (3) separate occasions to clients that was not known by the rest of the market.

The MPC believed that the failures to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(f), the MPC Brought the identified failures to comply to the Notice of the Full Participant.

In reaching its decision, the MPC was of the view that while the three (3) incidents of disclosure were of a serious nature, the matters were part of the same course of events as those which had previously resulted in the imposition of a \$10,000 fine against the Full Participant, also that they were identified following a self-initiated review by the Participant, and therefore a further monetary or greater penalty was not warranted.

INCIDENT THREE

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

1. **General By-Law G.13.1 and G.3.14(f), by virtue of an apparent failure to comply with Section 1209(5) of the Act**
[Clients' Segregated Account].

Pursuant to General By-Law G.11.3(d), the Full Participant notified the Exchange of two (2) separate breaches of the Business Rules of the Exchange and the Act.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(f), the BCC Brought the identified failures to comply to the Notice of the Full Participant.

In reaching its decision, the BCC took into consideration that pursuant to General By-Law G.11.3(d), this matter was self-reported in a timely manner by the Full Participant. In addition, it was noted that one (1) of the reported breaches was due to an error on behalf of the Full Participant's bank, whilst the other breach was due to a human error in the Full Participant's Operations Department and that the issues have since been addressed with the Full Participant's bank and Operations Department respectively and rectified.

PARTICIPANT 10

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

1. **General By-Law G.5.6(b)**
[A Local Participant shall only be Entitled to Trade on its own behalf];
2. **Trading Rule TR.17.1(c)(vi)**
[Seeking to Avoid Trading with the Intent to Cross]; and

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3. **General By-Law G.5.15(h)**

[Failure to Maintain Order Records].

The above failure to comply was identified following a routine trading review by Compliance & Surveillance staff. The enquiry identified that the Local Participant had traded on behalf of another party and had also sought to avoid trading with the intent to cross.

The BCC believed that the above failures to comply warranted the imposition of disciplinary action and therefore:

- (i) in accordance with General By-Law G.11.36(d), the BCC imposed a Reprimand upon the Local Participant for the identified failures to comply set out in points 1 and 2 above; and
- (ii) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failure to comply set out in point 3 above to the Notice of the Local Participant.

In reaching its decision, the BCC took into consideration that, upon being notified, the Local Participant ceased trading on the account immediately, and also the Local Participant had not had any previous disciplinary action taken against it.

PARTICIPANT 11

It was identified that Full Participant failed to comply with:

1. **General By-Law G.37(a)**

[Late Lodgment of Reportable Positions File].

The above failure to comply was identified as a result of the Full Participant's failure to submit its Reportable Positions File within the prescribed time.

The Delegate of the BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.8(b)(ii), the Delegate of the BCC Brought the failure to comply to the Notice of the Full Participant.

PARTICIPANT 12

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

1. **General By-Law G.37(a)**

[Late Lodgement of Reportable Position Files].

The above failure to comply was identified as a result of the Full Participant's failure to submit its Reportable Positions File within the prescribed time.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(d), the BCC imposed a Reprimand upon the Full Participant for the identified failure to comply.

In reaching its decision, the BCC noted that whilst it had imposed a fine of \$250 upon the Full Participant for a similar breach in September 2003, the failures did not appear to be beyond the Full Participant's control, but that after meeting with Exchange staff the Full Participant's staff appear to be more aware of the requirements of its system and that these failures should not recur.

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PARTICIPANT 13

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

1. **General By-Law G.22(a)**
[Failure to Receive Initial and Variation Margins];
2. **General By-Law G.26(b)**
[Post Allocation];
3. **General By-Law G.27(a)**
[Failure to Mandatory Record Information]; and
4. **General By-Law G.13.3**
[Failure to Top Up Clients' Segregated Account].

The above failures to comply were identified as part of an investigation into a complaint received from a former client of the former Full Participant.

The BCC believed that the failures to comply warranted the imposition of disciplinary action and therefore, in accordance with Operating Rule 5.6.1(c), the BCC imposed a \$10,000 fine upon the former Full Participant for the identified failures to comply.

In reaching its decision, the BCC took into consideration the fact that it did not appear that the former Full Participant had sufficient compliance procedures in place to ensure that its Representatives were acting in accordance with the rules. Further, the BCC noted that the failures to comply represented fundamental deficiencies in the former Full Participant's compliance process and procedures.

PARTICIPANT 14

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

1. **General By-Law G.37(a)**
[Late Lodgement of Reportable Position Files].

The above failure to comply was identified as a result of the Full Participant's failure to submit its Reportable Positions File within the prescribed time.

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore, in accordance with General By-Law G.11.36(b), the BCC imposed a \$1,000 fine upon the Full Participant for the identified failure to comply.

In reaching its decision, the BCC took into consideration that the Participant had been notified by Compliance and Surveillance staff on 29 December that the file for an overseas affiliate was due the following day yet it was unable to furnish the Reportable Positions File on a timely basis. The Committee also noted that other Exchange Participants with overseas affiliates were able to comply with General By-Law G.37(a).

PARTICIPANT 15

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

1. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1147 of the Act**
[Failure to comply with the Conditions of the Futures Brokers Licence];
2. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1172 of the Act**
[Failure to issue a Proper Authority to employees];
3. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1176(3) of the Act (by virtue of Section 87(1)(a) of the Act)**
[Proper Authorities not executed properly];

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4. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1176(6) of the Act** [Failure to move revoked Proper Authorities to a separate part of the Proper Authority Register];
5. **General By-Law G.3.14(f), by virtue of an apparent failure to comply with Section 1210 of the Act** [Failure to issue Client Agreement Documentation]; and
6. **General By-Laws G.3.16(q)(ii) and G.3.16(r)** [Participant's standard Client Agreement Form did not comply with the requirements of Part B of the First Schedule].

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

The BCC believed that the failure to comply warranted the imposition of disciplinary action and therefore,

- (i) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failure to comply set out at point 1 above to the Notice of the Full Participant; and
- (ii) in accordance with General By-Law G.11.36(g), the BCC Brought the identified failures to comply set out at points 2 to 6 above to the Notice of the Full Participant.

In determining the level of penalty, the BCC took into consideration that the breaches noted above were generally administrative, technical or inadvertent in nature. The BCC further noted that there had been no apparent intent in relation to the breaches and that the risk to and impact upon the Full Participant's clients and the market generally, in relation to the breaches, was low.

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

Should you have any queries please contact Ms Michelle Wagner on (02) 9256-0580 or mwagner@sfe.com.au.



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