



SFE NOTICE NO.

095/08

Date of Issue: 16 July 2008
Effective Date: 30 June 2008

Disciplinary Action Imposed by The Business Conduct Committee Upon Newedge Australia Pty Ltd

Pursuant to Operating Rule 5.12, ASX Market Supervision advises that its Business Conduct Committee (the "Committee"), has determined the following:

Newedge Australia Pty Ltd ("Newedge") has been fined \$50,000 (exclusive of GST) and is subject to a Targeted Compliance Undertaking for the failure to comply with the below SFE Operating Rules during the following periods: Fimat SNC from 21/06/07 to 27/09/07 and from 11/10/07 to 31/12/07 and Newedge from 02/01/08 to 23/01/08.

1. Operating Rule 2.2.27(a)
(Margins and Right of Close Out – Calling Initial Margin)
2. Operating Rule 2.2.27(b)
(Margins and Right of Close Out – Calling Variation Margin)
3. Operating Rule 2.2.26(f)
(Clients' Segregated Account Obligations – Requirement to Deposit Additional Monies in Clients' Segregated Account)

During the relevant time, the company operated in Australia through Fimat SNC. Fimat SNC was merged into Newedge Group as of 2 January 2008. The breaches occurred as a result of a re-organisation of tasks between Fimat Australia and Fimat Hong Kong. This re-organisation resulted in a miscommunication between areas within the Newedge Group in that each thought the other was calling margins for one particular client, an affiliated company. However, neither division called initial or variation margins to this client for approximately six months. Payments for margins were made to SFE Clearing Corporation Pty Ltd from Fimat / Newedge's Clients' Segregated Account and therefore clients' money held with Fimat / Newedge was being used to fund the margin calls. As such, the money held in Fimat / Newedge's Clients' Segregated Account diminished over time, and during the last month before the breach was identified, the Participant had to transfer funds from its House Account in order to top up Client Accounts. This declining Clients' Segregated Account balance alerted Newedge to the problem and hence the breaches were identified and self-reported to the Exchange by Newedge

Futures Supervision staff had questioned Fimat regarding anomalies reported in its Statement of Client Funds during the period.

The Committee was of the view that Fimat / Newedge's failure to identify breaches over such an extended period of time suggested a serious lack of effective managerial and operational controls, especially as Fimat was queried on the deficits in its Statement of Client Funds on two occasions. The Committee was further of the view that had a Clients' Segregated Account reconciliation been correctly completed, the Participant would have detected the above issues.

The Committee acknowledged that Newedge co-operated fully with the Exchange during the investigation and implemented preventive measures to safeguard against a recurrence of this nature. However, due to the serious nature of the breaches the Committee determined that Newedge would be required to conduct a Targeted Compliance Undertaking consisting of an



independent audit to review the controls and processes in relation to Newedge's Clients' Segregated Account and Margin procedures.

Should you have any enquiries please contact Janice Coles on (02) 9227 0224 – janice.coles@asx.com.au or Robert Coaldrake on me on (02) 9227 0223 - robert.coaldrake@asx.com.au.

A handwritten signature in black ink, appearing to read 'R. Coaldrake', written in a cursive style.

Robert Coaldrake
General Manager, Futures Supervision and Prudential Risk

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