



ASX 24 NOTICE NO.

154/10

Date of Issue:

27 September 2010

Effective Date:

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## DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal (the 'Tribunal') has determined the following:

MF Global Australia Limited ('MF Global') contravened the following Operating Rules of Sydney Futures Exchange (the 'Operating Rules'):

1. Operating Rule 3.1.10(a) by disclosing to another party information about an order not known to the rest of the market and not specifically permitted otherwise under the Operating Rules ('Contravention 1');
2. Operating Rule 3.1.11 by withholding orders with an intent to obtain a counterparty/counterparties ('Contravention 2'); and
3. Operating Rule 3.1.13 by arranging the details of a potential trade between two or more parties without the market being made aware of all relevant details of the potential trade, and not in a manner specifically permitted under the Operating Rules ('Contravention 3').

The contravening conduct occurred on 12 November 2009.

MF Global did not contest the contraventions before the Tribunal.

The Tribunal imposed a total fine of **\$80,000** (plus GST).

### **The circumstances of the matter are detailed as follows:**

#### Contravention 1

In a telephone conversation that commenced at 02:49:24am on 12 November 2009, MF Global's Representative received an instruction from a client (the 'Initial Client') to sell 100 December 2009 Three Year Commonwealth Treasury Bond Futures Contract ('YTZ9') at 94.85 (the 'Sell Order').

Prior to entering the Sell Order into the market the Representative contacted another client (the 'Second Client') to ask whether he was interested in buying 200 YTZ9 paying 94.860 stating, "*got two hundred threes to go at eighty-six*".

This information was not known to the rest of the market.

MF Global's Representative disclosed information to another party that was not known to the rest of the market and therefore MF Global has failed to comply with Operating Rule 3.1.10(a).

#### Contravention 2

MF Global's Representative did not immediately enter the Sell Order into the market on 12 November 2009 and instead withheld the order with the intention of obtaining a counterparty, the Second Client.

#### Contravention 3

On 12 November 2009, MF Global's Representative pre-arranged a trade between the Initial Client and the Second Client by not representing the Sell Order in the market and instead, divulging to, and receiving an opposing order from the Second Client which constituted a private arrangement for the deal to take place.



**In determining penalty, the Tribunal took into account a number of matters, including the following:**

- (a) The disciplinary history of MF Global.
- (b) The seriousness of the contraventions.
- (c) The misconduct was reckless or at least negligent with respect to Contravention 1.
- (d) The misconduct with respect to Contraventions 2 and 3 demonstrated an intentional disregard of the Rules.
- (e) MF Global fully cooperated with ASX Compliance in relation to the conduct of its investigation into the matter.
- (f) MF Global agreed at an early stage not to contest the contraventions, thereby saving time and costs.
- (g) The misconduct was an isolated instance.
- (h) The steps MF Global has taken to prevent a recurrence of the contraventions, including conducting internal training sessions relevant to these issues.
- (i) The misconduct had the potential to damage the reputation and integrity of the ASX and the market and facilities it operates.

**Disciplinary Tribunal Sanction Guidelines**

As the contravening conduct occurred after 31 March 2008 (but prior to 1 August 2010)\*, that being the effective time under the ASX Disciplinary Processes and Appeals Rulebook (the 'Rulebook'), the Tribunal was bound by the sanction guidelines (Annexure A to the Rulebook Procedures) in making its determination as to sanction in this matter.

In accordance with the sanction guidelines at Annexure A, the Tribunal determined that the three contraventions of the Operating Rules were appropriately classified as Level 2 (Serious Contraventions), for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). Given that the contraventions occurred as a result of one set of factual circumstances the Tribunal imposed a single aggregate penalty for the three contraventions.

The Tribunal considered the aggravating and the mitigating circumstances in each contravention, and imposed a total fine of \$80,000 (plus GST). The Tribunal considers that this fine represents an appropriate sanction in the circumstances.

\* On 1 August 2010, the supervision of trading on Australia's domestic licensed markets and the supervision of trading participants transferred from ASX to the Australian Securities and Investments Commission (ASIC). The conduct that is the subject of these contraventions occurred prior to the transfer date. ASX will continue to manage, and bring before the Tribunal, disciplinary matters for potential breaches of its operating rules occurring before the transfer date.

As part of the transfer, a number of changes were made to the rules, including the replacement of the Operating Rules of Sydney Futures Exchange by the ASX 24 Operating Rules (administered by ASX) and the ASIC Market Integrity Rules (ASX 24 Market) (administered by ASIC). Potential operating rule breaches which occurred prior to 1 August 2010 will be dealt with in accordance with the rules in place at the time of the alleged breach.

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## Australia