



ASX Disciplinary Matter – G.H. Financials Limited

ASX's Chief Compliance Officer ('CCO') has determined that G.H. Financials Limited ('GHF') did not comply with:

- (a) ASX Clear (Futures) Operating Rules ('ASXCRF') 4.14(a), being its obligation to provide an annual audit certificate in the prescribed form within three (3) months of its financial year-end relating to the year ended 31 March 2023;
- (b) ASXCRF 8.5(b), being its obligation to provide such additional statement or statements of its financial position, in such form or forms as ASX may require, and at such time or times as it may direct;
- (c) ASXCRF 4.14(d) and ASX24 Operating Rules ('ASX24OR') 1400(e) and their related procedures, being the obligations to notify the Market Operator in writing within 10 Business Days of the appointment, resignation or removal of a director;
- (d) ASXCRF 13.1, being its obligation to provide ASX with immediate access to information and records concerning the Clearing Participant's trading and financial position;
- (e) ASX24OR 4840 and its related procedure, being its obligation to report to the Market Operator, in the time and manner set out in the Procedures, each Open Position entered into by the Trading Participant, including daily beneficial ownership reports, except for transactions listed in the Procedures;
- (f) ASX24OR 5011(a), being its obligation, if the Participant is required to provide information or receive a notice under ASX24OR 5010, to provide information, or provide or permit inspection of the records in accordance with the notice; and
- (g) ASXCRF 4.10, being its obligation to at all times ensure that it satisfies the admission requirements set out under ASXCRF 4.2(e), being to have adequate resources and processes to comply with its obligations as a clearing participant under ASXCRF,

together, the '**Contraventions**'.

The CCO imposed a total fine of \$80,000 (plus GST) for the Contraventions.

The circumstances of this matter are:

Late provision of annual audit certificate

Schedule 1 of ASXCRF Guidance Note 1 establishes that a participant's processes for complying with both its financial requirements and their audit requirements are key processes for the purpose of complying with their obligations under ASXCRF.

On 23 June 2023, GHF requested an extension of time for the lodgement of its Annual Audited NTA Return, its Auditor's Report on Financial Information, a copy of its statutory accounts and an explanation of any variances in excess of 5% between its monthly return and Annual Audited NTA (together the '**Financial Documents**'). GHF submitted that the need for an extension arose because of a significant ransomware cyber-attack on an industry software vendor ION Trading Services ('**Cyber-Attack**') which caused an outage of services for a number of weeks in early 2023.

Despite two reminders from ASX and an extension of four weeks being granted to facilitate compliance, GHF failed to lodge its 30 June 2023 Financial Documents by the extended deadline of 31 July 2023 and ultimately did not lodge the Financial Documents until 31 August 2023.

This failure to provide the required 30 June 2023 Financial Documents impacted ASX's ability to comply with its obligations under Standard 16 of the RBA's Financial Stability Standards ('**FSS**') for ASX Clear (Futures) ('**CCP Standards**').

By engaging in this conduct, GHF breached:

- (a) ASXCRF 4.14(a), being its obligation to provide ASX with an annual audit certificate in the prescribed form within three months of its financial-year;
- (b) ASXCRF 8.5(b), being its obligation to provide such additional statement or statements of its financial position, in such form or forms as ASX may require, and at such time or times as it may direct; and
- (c) ASXCRF 4.10, being its obligation to maintain adequate resources and processes to ensure compliance with GHF's relevant financial reporting obligations,

together, the **'Financial Document Lodgement Contraventions'**.

Failure to notify ASX of director changes

Following a review undertaken by ASX, ASX identified and GHF has since admitted, that GHF failed to notify ASX of the appointment of two new directors within the required timeframe, in non-compliance with:

- (a) ASXCRF 4.14(d) and ASX24OR 1400(e) Procedure 1400(e)(2)(a), being mirror obligations captured under the two relevant rulebooks to notify ASX of the appointment of a director within 10 days of the appointment; and
- (b) ASXCRF 4.10 and ASX24OR 1400(a), being mirror obligations under two rulebooks establishing the expectation on GHF to at all times continue to satisfy the admission requirements set out under ASXCRF 4.2(e) and ASX24OR 1000(d) respectively, namely to maintain adequate resources and processes to ensure, amongst other things, compliance with its relevant notification obligations.

DBOR Contravention

On 24 July 2023, GHF executed an attestation certifying that it had "*developed and implemented adequate systems, procedures and controls necessary to minimise the risk of any issues associated with the submission of DBORs*" and was "*...ready for the implementation of the DBOR lodgement process changes as at 7 August 2023*".

Despite this representation, between 2 February 2024 and 5 February 2024, GHF failed to submit its DBORs in a machine-readable form approved by the Market Operator, in compliance with the prescribed daily deadline. This delay represents a breach of ASX24OR 4840.

Requests for Information Contraventions

On multiple occasions, GHF failed to appropriately engage with requests for information issued by ASX, through:

- (a) significant delays in responding to requests for information;
- (b) failures to appropriately communicate anticipated delays in compliance; and
- (c) failures to adequately respond, or respond at all, to questions included in the issued requests for information, often despite follow-up requests being issued by ASX.

In this manner, GHF breached:

- (a) ASX24OR 5011(a), being the expectation on GHF to provide the required information in compliance with the stated terms of the relevant notice received from ASX;
- (b) ASX24OR 1400(a), being GHF's obligation to at all times continue to satisfy the admission requirements set out under ASX24OR 1000(d), namely to maintain adequate resources and processes to ensure, amongst other things, compliance with its relevant production obligations; and
- (c) ASXCRF 13.1, being its obligation to provide ASX Clear (Futures) with immediate access to information and records concerning the Clearing Participant's trading and financial position,

together, the **'RFI Contraventions'**.

In determining the penalty, the CCO, among other factors, took into account the following:

- (a) The Financial Document Lodgement Contraventions impacted ASX's ability to comply with its obligations under Standard 16 of the RBA's FSS CCP Standards.
- (b) While ASX acknowledged that the Cyber-Attack may have caused a delay in the preparation of the Financial Documents, as a central counterparty ASX is required to establish and rigorously enforce relevant rules and timelines, such as ASXCRF 4.14(a) and ASXCRF 8.5(b), requiring the submission of an annual audit certificate by the prescribed deadline and the production of additional financial statements for the assurance of ASX.
- (c) A warning letter previously issued to GHF in 2002, which alleged similar contraventions to those the subject of this Disciplinary Circular, together with required remedial actions.
- (d) The implementation of comprehensive measures by GHF to remediate the identified Contraventions and to prevent a recurrence of the contravening conduct, including, but not limited to, establishing a dedicated 'request for information' response team accountable for timely and comprehensive engagement with ASX, and conducting training on information response protocols.
- (e) GHF's early decision to admit the Contraventions.
- (f) That GHF did not derive a financial benefit or other commercial advantage from the Contraventions.
- (g) That GHF did not act unconscionably towards, or otherwise take advantage of, clients or counterparties.

Sanction Guidelines

The CCO determined that, given the circumstances in this matter, a fine of \$80,000 (plus GST) was an appropriate sanction.