ASX Disciplinary Matter – Instinet Australia Pty Ltd

The Group Executive, ASX Supervision has determined that Instinet Australia Pty Ltd ('**Instinet**') did not comply with:

(a) ASX Clear Operating Rules ('**ASX CR'**) 12.17.5 and its related Procedures, being Instinet's obligation to settle a Cash Market Margin ('**CMM'**) by the prescribed time of 10:30am on 2 September 2024;

(b) ASX CR 14.6.1 and its related Procedures, being Instinet's obligation to meet its margin payment obligations determined under Rule 14.5.1 by the prescribed time of 10:30am on 2 September 2024; and

(c) ASX CR 4.1.1(a), being the requirement on Instinet to at all times satisfy the admission requirements under ASX CR 3.2.1(e) and ASX CR 3.5.1, including having adequate resources and processes to comply with its obligations under the ASX CR,

together, the '**Contraventions**'.

The Group Executive, ASX Supervision imposed a total fine of $65,000 (plus GST) for the Contraventions.

<u>The circumstances of this matter are</u>:

On 2 September 2024, Instinet failed to settle its margin payment obligation totalling $69,828,137.65 by the prescribed time of 10:30am. The margin payment obligation comprised a Cash Market Margin in the amount of $28,728,137.65 and a Stress Test Exposure Limit Additional Initial Margin in the amount of $41,100,000 (together, the '**Margin Payment'**). The Margin Payment was subsequently settled 27 minutes late at 10:57am (the '**Event'**).

Instinet's failure to settle the Margin Payment by the prescribed time stemmed from inadequate, or inadequately embedded, procedures, including but not limited to:

(a) monitoring and escalation arrangements for margin payments, including reliance on a single staff member to monitor margin call communications;

(b) delays in arranging an intraday credit facility increase with its banking provider;

(c) deficient and outdated processes in Instinet's margin procedures, including processes for arranging timely short-term credit increases; and

(d) a failure to review the Daily Margin Stress Testing report published by ASX at 8:00am, which had it been considered would have enabled Instinet to take appropriate anticipatory steps.

<u>In determining the penalty, the Group Executive, ASX Supervision, among other factors, took into account the following:</u>

(a) The RBA has determined Financial Stability Standards ('**FSS**') for licensed clearing facilities such as ASX Clear ('**CCP Standards'**). Under standards 6 and 16 of the CCP Standards, central counterparties are expected to establish and enforce timelines for margin collection payments, and to manage operational risks through appropriate systems, policies, procedures and controls.

(b) Given the important role margins serve in protecting the integrity of ASX's markets and clearing facilities, ASX must rigorously enforce compliance with margin obligations and prescribed settlement timeframes, such as ASX CR 12.17.5 and 14.6.1, for margin payments.

(c) Under ASX CR 15.1.1, where a Clearing Participant fails to meet any obligation under the ASX CR, or fails to pay any Initial Margins, Intraday Margins, or Daily Settlement Amounts, such failure may constitute an event of default.

(d) In accordance with the CCP Standards and ASX CR Guidance Note 1 establish that, as a component of the requirement on a participant to have adequate resources and processes to comply with its obligations under the ASX CR, clearing participants are expected to document and implement their key processes for meeting their obligations under the ASX CR, including key processes for ensuring they meet their daily margin obligations and to have in place appropriate payment processes, including any alternative payment arrangement processes, to meet its obligations.

(e) On 19 December 2023, ASX sent to all Participants a document titled "*ASX Participant Engagement – Margin Obligations Benchmark*" which outlined what ASX considers to be best-practice examples of the controls and processes that participants should have in place to meet their margin settlement requirements ('**ASX Training**'). ASX recommended that participants use the ASX Training to self-assess their processes and identify any areas for improvement.

(f) Instinet attempted to pay the Cash Market Margin ($28,728,137.65) before the prescribed time of 10:30am but later recognised that the Cash Market Margin and Stress Test Exposure Limit Additional Initial Margin payment could not be separated.

(g) The Contraventions were inadvertent and unintentional.

(h) Instinet did not have effective processes in place to meet its margin payment obligations.

(i) Instinet did not act unconscionably towards, or otherwise take advantage of, clients or counterparties.

(j) Instinet did not derive a financial benefit or other commercial advantage from the Contraventions.

(k) Instinet demonstrated a cooperative stance with ASX in its investigation of the breaches.

(l) The Contraventions were an isolated incident.

(m) Instinet has since implemented enhancements to prevent recurrence.

Sanction Guidelines

The Group Executive, ASX Supervision has determined that, given the circumstances in this matter, a fine of $65,000 (plus GST) is an appropriate sanction.

In making this determination, ASX re-emphasises to participants that the timely payment of margins (including Cash Market Margin and Stress Test Exposure Limit Additional Initial Margin) is critical to the integrity and stability of the ASX market, as timely payment ensures that exposures arising from trading activity are adequately collateralised, reducing the risk of participant default and limiting the potential impact across the market.

ASX recommends that Participants regularly review ASX training materials to self-assess their processes and identify areas for improvement.