



## MARKET ANNOUNCEMENT

6 September 2010

### ASX Compliance Monthly Activity Report – August 2010

#### Transfer of Supervisory Activities to ASIC

On 1 August 2010, responsibility for the supervision of real-time trading on the ASX Group's (ASX) licensed financial markets and for the conduct of participants on those markets transferred from ASX to the Australian Securities and Investments Commission (ASIC), pursuant to the Corporations Amendment (Financial Market Supervision) Act 2010. On that date, the market rules for the ASX and ASX 24<sup>1</sup> markets were effectively split into market integrity rules administered by ASIC and Operating Rules administered by ASX. Twenty-three ASX Compliance staff commenced employment with ASIC in conjunction with the transfer.

#### Issuers

| Listings                       | August 2010 |
|--------------------------------|-------------|
| Listed entities at month start | 2200        |
| New listings                   | 5           |
| De-listings                    | 19          |
| Listed entities at month end   | 2186        |

Average monthly new listings for FY11 year-to-date stand at 9 (compared to 8 listings per month on average for FY10).

New listings for the month were Aston Resources Limited (AZT), Bailey Minerals NL (BAA), Dampier Gold Limited (DAU), Infracore Limited (IFZ) and TORRENS Series 2010-2 Trust (TRK).

Twelve entities failed to pay to ASX Limited their annual listing fees for the year ending 30 June 2011 and consequently were removed from the official list from the close of trading on 30 August 2010 in accordance with Listing Rule 17.15. Those entities were: City Pacific Limited (CIY), Clivpee Limited (CPR), Forest Enterprises Australia Limited (FEA), Fulcrum Equity Limited (FUL), Great Southern Limited (GTP), Guilford Investments Limited (GUI), LV Living Limited (LVL), MRI Holdings Limited (MRI), Nylex Limited (NLX), Polartech Limited (PLT), Tamaya Resources Limited (TMR) and Timbercorp Primary Infrastructure Fund (TPF)

Other de-listings for the month included Australian Central Credit Union Ltd (ACD), Arrow Energy Limited (AOE), Green Pacific Energy Limited (GPE), Halcyon Securities Limited (HLC), Liberty Series 2006-1 Trust (LIF), Viridis Clean Energy Trust 1 (VIR) and Westpac Office Trust (WOT).

<sup>1</sup> The SFE market was re-named the ASX 24 market on 1 August 2010.

| Key Issuer Statistics                                      | August 2010 |
|--|-------------|
| Total company announcements                                | 10,149      |
| Continuous disclosure queries made by ASX <sup>2</sup>     | 41          |
| Price queries <sup>3</sup> by ASX                          | 43          |
| Aware letters <sup>4</sup> sent by ASX                     | 2           |
| Announcements made following a price query                 | 40          |
| Trading halts at the issuer's request                      | 91          |
| Trading halts following a price query by ASX               | 0           |
| Suspensions at the issuer's request                        | 8           |
| Suspensions imposed by ASX for breach of the Listing Rules | 2           |

### Participants

| ASX Participants                                       | August 2010    |
|--|----------------|
| Market/Clearing/Settlement Participants at month start | 172            |
| New admissions   | 4 <sup>5</sup> |
| Resignations and removals                              | 1              |
| Market/Clearing/ Settlement Participants at month end  | 175            |

| ASX 24 Participants                         | August 2010 |
|---|-------------|
| Market/Clearing Participants at month start | 41          |
| New admissions                              | 0           |
| Resignations and removals                   | 0           |
| Market/Clearing Participants at month end   | 41          |

Euroz Securities Limited resigned as a Participant of ASX Clear Pty Limited, effective 13 August 2010.

<sup>2</sup> Excluding price queries.

<sup>3</sup> Price queries are enquiries made by ASX (either by letter or verbally) to a listed entity if it detects unusual movements in the listed entity's security price or trading volumes to ask if the listed entity is aware of any information that has not been announced which, if known, might explain the movements.

<sup>4</sup> Aware letters are sent by ASX following an announcement by a listed entity and ask for details of when the listed entity became aware of the material information contained in the announcement.

<sup>5</sup> Four Special Settlement Participants were set up to effect specific corporate actions and are not named as their participation is temporary.

## Enforcement

| Referrals to ASIC <sup>6</sup>  | August 2010 |
|---------------------------------|-------------|
| Continuous disclosure referrals | 1           |
| Other referrals                 | 6           |
| Total referrals to ASIC         | 7           |

| Pre 1 August 2010 Enforcement Matters <sup>7</sup> | August 2010 |
|--|-------------|
| Open ASX Enforcement matters at month start        | 24          |
| New enforcement matters commenced during the month | 3           |
| Enforcement matters concluded during the month     | 3           |
| Open ASX Enforcement matters at month end          | 24          |
| Fines imposed during the month (excl GST)          | \$153,000   |

No enforcement matters have yet been commenced for the contravention of the ASX Operating Rules post 1 August 2010. The three new enforcement matters commenced during the month related to alleged contraventions of the ASX Market Rules prior to 1 August 2010.

Three Circulars were released by the ASX Disciplinary Tribunal during the month. Copies of the Disciplinary Circulars are available online at: <http://www.asx.com.au/asx/research/disciplinaryAnnouncements.do?by=all>.

### ASX Rule Changes, Waivers and Exemptions

With the transfer of certain supervisory responsibilities to ASIC on 1 August 2010, new Operating Rules were introduced for the ASX and ASX 24 (former SFE) markets. Matters covered by the former ASX Market Rules and SFE Operating Rules were split between market integrity rules to be supervised by ASIC and separate Operating Rules to be administered by ASX.

A number of other rule changes were implemented during the month. Details of the changes can be accessed online at: [http://www.asx.com.au/compliance/rules\\_guidance/recent\\_rule\\_amendments.htm](http://www.asx.com.au/compliance/rules_guidance/recent_rule_amendments.htm).

A number of waivers and exemptions from the ASX Rules were also granted during the month. Details of those waivers and exemptions can be accessed online at the Rules, Guidance Notes and Waivers page on the ASX website: [http://www.asx.com.au/compliance/rules\\_guidance/index.htm](http://www.asx.com.au/compliance/rules_guidance/index.htm).

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<sup>6</sup> ASIC is required, under section 792B(2)(c) of the Corporations Act 2001, to refer a matter to ASIC if it has reason to suspect that a person has committed, is committing, or is about to commit a significant contravention of the ASX Group's operating rules or the Corporations Act. It should be noted that a single referral may relate to more than one potential contravention. It should also be noted that the fact a matter has been referred to ASIC does not necessarily mean that a contravention has been committed or that ASIC will take enforcement proceedings in relation to it.

<sup>7</sup> Prior to 1 August 2010, ASX was responsible for supervising the ASX and ASX 24 markets and their participants and for monitoring and enforcing compliance with the market rules for those markets. The responsibility for supervising the ASX and ASX 24 markets and their participants was transferred from ASX to ASIC on 1 August 2010 pursuant to the Corporations Amendment (Financial Market Supervision) Act 2010, and the market rules for the ASX and ASX 24 markets were effectively split into market integrity rules administered by ASIC and Operating Rules administered by ASX. However, ASX remains responsible for enforcing any breaches of the former market rules that occurred prior to 1 August 2010.

## Education and Research Program

Since 1 January 2007, surplus monies<sup>8</sup> arising from the penalties imposed by ASX Disciplinary Tribunals have been set aside and applied to the ASX Education and Research Program (ERP). Monies in the ERP have been used to fund various education and research activities, including the cost of conducting training courses for participants and listed entities in relation to supervisory issues. These arrangements were established to address a perceived conflict if penalties imposed on market participants by ASX as market supervisor were applied to its own benefit.

With the responsibility for supervising real-time trading on Australia's licensed markets and for the conduct of participants on those markets transferring to ASIC on 1 August 2010<sup>9</sup>, this perceived conflict is no longer an issue. And with the introduction of market integrity rules administered by ASIC, it is no longer appropriate that the ASX take a lead role in educating the market on supervisory matters.

ASX remains responsible for the investigation and enforcement of supervisory matters that occurred prior to 1 August 2010<sup>10</sup>. To ensure that these supervisory matters are finalised as quickly as possible, the Board of ASX Compliance has determined that it is appropriate to apply some of the surplus funds in the ERP towards the expenses that will be incurred in their finalisation. This includes the costs of taking on additional resources, including secondees from ASIC, to facilitate the speedy resolution of these matters, and the costs of running and supporting the Disciplinary Tribunals. The remaining funds in the ERP will continue to be available for use in educational events and research projects. The events and projects that have already been approved for the current financial year will not be affected.

With the responsibility for supervising real-time trading on Australia's licensed markets and for the conduct of participants on those markets transferring to ASIC, it is anticipated that the number of ASX enforcement matters and the aggregate level of penalties imposed by ASX against participants will both diminish, perhaps significantly. The Board of ASX Compliance intends to reassess the future of the ERP and its funding arrangements once the run-off of pre-1 August enforcement matters has been completed.

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<sup>8</sup> That is, the aggregate amount of penalties imposed by the ASX Disciplinary Tribunals over and above the external expenses incurred by ASX in bringing matters before the Disciplinary Tribunals.

<sup>9</sup> See note 7 above.

<sup>10</sup> See note 7 above.