

## **ASX Compliance Enforcement Activity**

Under the Corporations Act, as a licensed operator of financial markets, ASX is obliged to have adequate arrangements for monitoring and enforcing compliance with the operating rules of those markets. It is also obliged, as a licensed operator of clearing and settlement facilities, to have adequate arrangements for supervising those facilities and for enforcing compliance with their operating rules.

The purpose of this circular is to notify participants in those markets and facilities of some of the enforcement activities recently undertaken by ASX Compliance, so that they are aware of potential areas of concern for ASX and of ASX's enforcement activities in those areas.

This circular covers enforcement activities that were finalised during the 3 month period ended 31 May 2018. Investigations in relation to other enforcement matters are ongoing.

### **Enforcement proceedings**

ASX finalised one enforcement proceeding in the period.

The ASX Chief Compliance Officer ("**CCO**") imposed a penalty of \$50,000 (plus GST) on Deutsche Securities Australia Limited for a breach of ASX Operating Rule 3500 after it failed to promptly report a special crossing.

Further details regarding this matter is available in the following ASX circular:

<https://www.asx.com.au/communications/notices/2018/deutsche-securities-australia-limited-disciplinary-circular.pdf>

### **Failure to meet prescribed times for paying and / or receiving margin**

ASX has issued a warning letter to two participants in relation to timely compliance with margin obligations under the ASX Clear (Futures) Operating Rules ("**ASX CFR**").

In the first case, the participant failed to receive a New Zealand dollar margin until more than two hours after the prescribed time under Schedule 3 to the ASX CFR. ASX acknowledged that the participant had documented measures to enable ASX margin obligations to be met by a wholly-owned group entity operating offshore where required. The breach was caused by the absence of a practiced protocol for margin payments occurring on Australian public holidays. The participant advised it had improved its processes to address this gap.

In the second case, the participant in question failed to settle a payable amount until 10 minutes after the prescribed time under Schedule 3 to the ASX CFR. The cause of the failure was the participant's payment provider, however ASX reminded the participant that, as part of their obligation to have adequate resources and processes in place to comply with their obligations under the rules, they should have management supervision processes in place with the relevant bank to ensure that they can meet their matching and settlement obligations. This is because a participant will be liable for any action or omission by the bank in relation to any breaches of the ASX CFR. It was the participant's second breach of the ASX CFR margin obligations in 12 months. The participant advised that it had taken steps to improve its processes by requiring a confirmation email from the bank at the conclusion of matching and settlement so as to enable it to raise and manage any issues if said confirmation is not received.

### **Compliance with position reporting**

ASX has issued a warning letter to a participant in relation to a breach of ASX 24 Operating Rule ("**ASX 24 OR**") 4840. A review of the participant's daily beneficial ownership reports ("**DBORs**") identified that they did not provide a valid client name or address for a large number of client accounts, and used an incorrect participant mnemonic reference. The pattern of errors continued since 2010 without being detected by the participant.



ASX noted that the participant had taken a number of remedial steps, including rectifying all incorrect mnemonic references, engaging with its vendor to redesign its DBOR reporting format to include all seven GMI data fields, and implementing a daily manual process to review its DBORs for any accounts that have been setup with incorrect static data. ASX also required the participant to undertake a review of all these remediation items to ensure the issues have been successfully rectified.

### **Reconciliation of client money requirements**

ASX has issued a warning letter to a participant in relation to two self-reported breaches of ASX Clear Operating Rule (“**ASX CR**”) 4.23.2.

In the case of both breaches, the participant had a deficiency of client funds in its trust account as a result of a system or processing error.

As part of ASX’s investigation it identified that the participant’s trust account reconciliation process did not satisfy ASX CR 4.23.6 and Guidance Note 12, in that it failed to use the correct close of business balance to perform the trust account reconciliation.

The participant took a number of steps to remediate these issues, including undertaking a comprehensive review of its client asset segregation functions, and designing and implementing specific technology initiatives and system changes.

