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What's this about?

Effective date: 29/02/2016

<input checked="" type="checkbox"/> ASX Trade	<input checked="" type="checkbox"/> ASX 24	<input type="checkbox"/> ASX TECH				
<input checked="" type="checkbox"/> Trading	<input checked="" type="checkbox"/> Clearing	<input checked="" type="checkbox"/> Settlement	<input type="checkbox"/> ALC	<input type="checkbox"/> ASX NET		
<input type="checkbox"/> Operations	<input type="checkbox"/> Technology	<input type="checkbox"/> Market Data	<input checked="" type="checkbox"/> Rules	<input checked="" type="checkbox"/> Compliance	<input type="checkbox"/> Risk	<input type="checkbox"/> Other

## **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 29 February 2016. Investigations in relation to other enforcement matters are ongoing.

### **Failure to discharge net clearing obligations for cash market margin in accordance with the times prescribed under the ASX Clear Operating Rules**

ASX issued a formal warning letter to a participant for a breach of ASX Clear Operating Rule 12.17 on 12 November 2015 arising from its failure to pay the required cash market margin (CMM) by the prescribed time of 10:30am (AEDT).

The participant confirmed that the breach was caused by a delay by the participant's payment provider in releasing funds in the Reserve Bank Information and Transfer System (RITS). This resulted in a delay in settlement of the CMM payment which occurred at 10.57am (AEDT), 27 minutes after the prescribed time.

While the payment was authorised by the participant at 10.23am (AEDT), the status of the payment was not actively monitored by the participant to confirm it was in a "settled" state by the prescribed time. ASX Clearing and Settlement Operations had to contact the participant to escalate and resolve the matter at 10.28am and again at 10.40am.

This matter follows on from two previous breaches of ASX Clear Operating Rule 12.17 by the participant where it missed the prescribed CMM payment time by 3 minutes on 13 August 2013 and 1 minute on 30 January 2014.

The participant has now implemented internal procedures and training as a result of the latest contravention.

The requirement for participants to discharge their payment obligations on time is fundamental to the efficient operation of the ASX Clear facility. The participant has been advised that a failure to discharge payment obligations on time in the future will automatically be referred to the ASX Enforcement team for formal enforcement action.

### **Failure to comply with holder lock obligations**

ASX issued a formal warning letter to a participant for:

- 15 breaches of ASX Settlement Operating Rule 7.1.5 for failing to cancel a HIN within three calendar months of removal of the holder record Lock;
- 27 breaches of ASX Settlement Operating Rule 8.15.8 for failing to apply a holder record lock to the HIN within 1 business day of receiving a notice of death of the holder; and
- 9 joint breaches of ASX Settlement Operating Rules 7.1.5 and 8.15.8.

The participant confirmed that no client suffered any loss as a result of the breaches.

The failure of the participant to identify the recurring breaches over a period of time indicated that it did not have effective processes in place to prevent, identify, monitor and report on the ASX Settlement rule obligations associated with holder record locks. However, in this instance, ASX recognised that the participant had implemented a number of new internal procedures and provided training to all relevant employees as a result of the contraventions and ASX therefore determined not to take any further enforcement action.

#### **Failure to comply with reporting obligations**

ASX issued a formal warning letter to a participant for a number of breaches of its reporting obligations as follows:

- 2 breaches of ASX Settlement Operating Rule 6.8A.5 for failing to submit a securities lending report by the prescribed time of 9:00am (AEDT) on 4 November 2015 and 10 December 2015; and
- 2 breaches of ASX Operating Rule 3501 for failing to submit a short sale report by the prescribed time of 9:00am (AEDT) on 10 December 2015 and 4 February 2016.

This matter follows on from a number of earlier similar breaches of reporting obligations over the period 1 March 2014 to 1 February 2016 including 4 breaches of ASX 24 Operating Rule 3500 and 6704 for failing to ensure that the daily beneficial ownership report submitted to ASX was complete and accurate.

Having regard to the number and frequency of breaches reported by the participant, ASX has required the participant to undertake remedial actions to demonstrate that it has the resources and processes in place to comply with its obligations under the applicable operating rules and to mitigate the risk of recurrence of similar breaches.

#### [What do I need to do and by when?](#)

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##### Instructions

For your information only.

#### [Need more information?](#)

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