

## **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 period ending 30 September 2020. Investigations in relation to other enforcement matters are ongoing.

### **Intra-day margin**

ASX issued a warning letter to a participant concerning a breach of its obligation to deposit an intra-day margin amount with ASX Clear (Futures) pursuant to ASX Clear (Futures) Rule 45.1.

On the relevant day, the participant was required to deposit NZD 1,706,009 by 1:06 pm. The funds settled six minutes after the due time. The reason for the delay was the participant's failure to identify ASX's email notifying it of its obligation to pay the intra-day margin.

Following the breach, the participant undertook a number of remediation steps, including enhanced alerts for intra-day margin calls from ASX, reminders to staff of the importance of timely ASX intra-day margin payments, and updating its escalation tree to include the participant's internal compliance team when an issue concerns ASX margin payments.

### **Short-sale reporting**

ASX issued a warning letter to a participant concerning a breach of its obligations with respect to the submission of short-sale reports to ASX.

ASX found that the participant had submitted short-sale reports on 77 occasions between September 2013 and January 2020 with inaccurate information affecting 537 securities in aggregate. An investigation determined that the root cause of the errors was technology changes and system limitations, which led to certain clients being omitted from the reports and the duplication of basket orders and manual tickets in certain circumstances.

In submitting the inaccurate reports, the participant breached the following ASX Operating Rules ('**ASX OR**')

- 3501, which requires a participant to provide ASX with a short-sale report in accordance with the procedures to the ASX OR;
- 6710(b), which requires a participant to ensure that the information in any reports prepared and submitted by it under the ASX OR is extracted accurately from its records; and
- 1400, which requires a participant to comply on an ongoing basis with the requirements for its admission as a participant, including the requirement under ASX OR 1000(d) to have adequate resources and processes to comply with its obligations under the ASX OR.

