

ASX Disciplinary Matter – Credit Suisse Equities (Australia) Limited

ASX Limited's Chief Compliance Officer (the 'CCO') has determined that Credit Suisse Equities (Australia) Limited ('CSEAL') failed to comply with:

- (a) ASX Settlement Operating Rule ('ASX SR') 6.8A.5(a) and its related procedure, being its obligation to report its Securities On Loan Position by the prescribed time;
- (b) ASX SR 6.8A.5(b) and its related procedure, being its obligation to report its Securities Borrowed Position by the prescribed time; and
- (c) ASX SR 6.8A.5(c) and its related procedure, being its obligation to report its Securities Committed Position by the prescribed date and time,

together, the 'Contraventions'.

The CCO imposed a total fine of \$30,000 (plus GST) for the Contraventions.

The circumstances of this matter are:

On 22 January 2021 and 15 February 2021, CSEAL provided written notifications to ASX advising that following an internal review (relating to a new business initiative) CSEAL had identified inaccuracies with its required reporting of its Securities on Loan Positions, Securities Borrowed Positions and Securities Committed Positions under ASX SR 6.8A.5. The inaccuracies occurred as a result of CSEAL's failure to report, likely since the inception of the securities lending reporting obligations, the securities borrowing and lending ('SBL') activities of one offshore Non-Participant Related Body Corporate which operates on a separate platform and sits within a division of the bank separate to CSEAL's securities trading business.

On 24 June 2021, CSEAL notified ASX of additional Securities On Loan Positions for Non-Participant Related Body Corporates which had been inadvertently omitted from the quarterly Securities Committed Positions required to be reported to ASX under ASX SR 6.8A.5(c). The reason stated by CSEAL for these omissions was a misunderstanding of the definition of Securities Committed Position in the ASX SR and how it was to be calculated. From this statement ASX inferred that these omissions had again been an ongoing occurrence since the inception of ASX SR 6.8A.5.

CSEAL subsequently remedied these Contraventions.

In determining the penalty, the CCO took into account, among other factors, the following:

- (a) The Contraventions could have materially impacted:
 - (i) ASX's compliance with the Reserve Bank of Australia's financial stability standards ('FSS') for securities settlement facilities, which apply in relation to the clearing and settlement facility operated by ASX; as well as
 - (ii) the reputation of ASX and the clearing and settlement facility it operates.
- (b) The reporting provided for under ASX SR 6.8A is relied on by ASX to promote greater transparency as to the potential settlement risks inherent in securities lending positions and to achieve compliance with ASX's obligations under FSS 18.3 for securities settlement facilities. Accordingly, any errors by participants in reporting of securities lending information can negatively impact this promoted market transparency, ASX's reputation and ASX's compliance with the FSS.
- (c) The extended duration of the Contraventions.

- (d) CSEAL's failure to identify its SBL reporting deficiencies in an earlier review of its operational procedures, training and systems which supported CSEAL's securities lending reporting obligations, which was carried out in 2018.
- (e) That the Contraventions were inadvertent and unintentional.
- (f) That CSEAL did not derive a financial benefit or other commercial advantage from the Contraventions.
- (g) That CSEAL did not act unconscionably towards, or otherwise unfairly take advantage of, clients or counterparties.
- (h) That CSEAL self-reported and subsequently quickly remediated the identified breaches.
- (i) The 'totality principle', as explained in Annexure A to the ASX Enforcement and Appeals Rulebook.

Sanction Guidelines

The CCO determined that, given the circumstances in this matter, a fine of \$30,000 (plus GST) was an appropriate sanction.