

## ASX Disciplinary Matter – UBS Securities Australia Limited

ASX's Chief Compliance Officer ('CCO') has determined that UBS Securities Australia Limited ('UBSSA') did not 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;
- (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; and
- (d) ASX SR 6.1.1(a), being its obligation to at all times continue to satisfy the admission requirements under ASX SR 4.3.1(h) and 4.18.1 to have adequate processes to comply with its obligations under ASX SR 6.8A.5;

together, the '**Contraventions**'.

The CCO imposed a total fine of \$35,000 (plus GST) for the Contraventions.

The circumstances of this matter are:

On 14 December 2009, ASX introduced ASX SR 6.8A.5.

As from that time under this rule, a Securities Lending Participant was required to provide certain reporting to ASX of securities on loan, securities borrowed and securities committed positions of the participant and of its related bodies corporate that are not themselves a participant, on a daily or quarterly basis (as applicable).

On 29 September 2023, UBSSA self-reported to ASX that:

- (a) a subset of the securities lending activity undertaken by an offshore Non Participant Related Body Corporate ('NPRBC') was not reported by UBSSA (the '**Under Reporting**'); and
- (b) a subset of securities lending activity connected to a different offshore NPRBC was inadvertently included in UBSSA's reporting to the ASX, but related to internal securities lending flow between UBSSA and the respective NPRBC (the '**Over Reporting**'),

together, the '**Misreporting**'

UBSSA submitted that the root cause of the Misreporting was a system-design issue when establishing UBSSA's reporting arrangements. The Misreporting was corrected by UBSSA with effect from November 2023.

ASX considers that UBSSA was non-compliant with ASX SR 6.1.1(a) which required that UBSSA at all relevant times continue to satisfy the admission requirements under ASX SR 4.3.1(h) and 4.18.1 to have adequate processes in place to comply with its obligations under the ASX SRs.

UBSSA has subsequently remedied these Contraventions.

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

- (a) The Contraventions could have materially impacted on:
  - i. ASX's compliance with the Reserve Bank of Australia's ('RBA's') financial stability standards ('FSS') for securities settlement facilities which apply in relation to the clearing and settlement facility operated by ASX; and

- ii. the reputation of ASX or 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 risk inherent in securities lending positions and to achieve compliance with such FSS obligations.
- (c) The extended duration of the Contraventions.
- (d) The Contraventions were inadvertent and unintentional.
- (e) UBSSA did not derive a financial benefit or other commercial advantage from the Contraventions.
- (f) UBSSA did not act unconscionably towards, or otherwise unfairly take advantage of, clients or counterparties.
- (g) UBSSA self-reported its failure to comply with ASX SR 6.8A.5.
- (h) UBSSA demonstrated a cooperative stance with ASX since UBSSA's self-reporting and completed a prompt and comprehensive review and remediation of the identified breaches.
- (i) UBSSA has a good history of complying with ASX's operating rules.
- (j) Having regard to the "totality principle" ASX considers it appropriate to apply an overall penalty across the Contraventions, notwithstanding that an aggregation of penalties for each individual contravention may be higher.

#### **Sanction Guidelines**

The CCO determined that, given the circumstances in this matter, a fine of \$35,000 (plus GST) was an appropriate sanction.