

## **ASX Disciplinary Matter – J.P. Morgan Nominees Australia Pty Limited**

ASX Limited's Chief Compliance Officer (the '**CCO**') has determined that J.P. Morgan Nominees Australia Pty Limited ('**JPMNAPL**'), 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; and
- (b) ASX SR 6.8A.5(c) and its related procedure, being its obligation to report its Securities Committed Position,

together, the '**Contraventions**'.

The CCO imposed a total fine of \$20,000 (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 18 October 2019, JPMNAPL submitted a self-report of inaccuracies it had identified in its Securities On Loan and Securities Committed Positions following a proactive review of its compliance with ASX SR 6.8A.5 undertaken by it in September 2019 ('**JPMNAPL Self-Report**').

The JPMNAPL Self-Report confirmed JPMNAPL had:

- (i) identified inaccuracies in its Securities On Loan and Securities Committed Positions reporting to ASX during the period from 2016 to 2019;
- (ii) taken action to correct the daily reporting logic to capture the reportable positions; and
- (iii) committed to rectifying its future reporting to ensure compliance with its securities lending reporting obligations.

On 5 December 2019, ASX issued a request for further information to JPMNAPL seeking additional detail regarding the nature of the identified inaccuracies, their cause and an update on JPMNAPL's remedial action.

On 17 January 2020, JPMNAPL provided a response to ASX confirming that the cause of these inaccuracies were attributed to the following:

- (i) for the period from December 2016 to October 2019, the Securities on Loan Positions and Committed Positions were not included in their reporting for a limited number of agency lending clients where J.P. Morgan was not the appointed custodian;
- (ii) for the period from 23 September 2018 to 4 October 2019, the Securities on Loan Positions and Securities Committed Positions were not included in their reporting for a limited number of agency lending clients that were migrated to a new J.P. Morgan legal entity; and
- (iii) reporting being conducted via a global system which was run at the end of day in New York and which included settled movements into and out of the lending program on the first day of the following quarter (in Australia), as opposed to reporting the Securities Committed Positions on the last business day of the quarter.

JPMNAPL has subsequently remedied these Contraventions.

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

- (a) The Contraventions could have significantly 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. Failures to report, or errors in reporting of securities lending information can negatively impact market transparency, ASX's reputation and the objective of the FSS.
- (c) The extended duration of the Contraventions.
- (d) The Contraventions were inadvertent and unintentional.
- (e) JPMNAPL did not derive a financial benefit or other commercial advantage from the Contraventions.
- (f) JPMNAPL did not act unconscionably towards, or otherwise unfairly take advantage of, clients or counterparties.
- (g) JPMNAPL self-reported the Contraventions.
- (h) JPMNAPL demonstrated a cooperative stance with ASX in its investigations of the Contraventions.
- (i) JPMNAPL undertook prompt and effective remedial action.
- (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 \$20,000 (plus GST) was an appropriate sanction.