

ASX Disciplinary Matter – UBS AG

ASX's Chief Compliance Officer ('**CCO**') has determined that UBS AG ('**UBS**') did not comply with ASX Clear (Futures) Operating Rule ('**ASX CFR**') 45.1, being UBS's obligation to settle an Intra-Day Margin ('**Overnight Margin**') by the prescribed time of 4.30am AEST on 15 June 2023 ('**Contravention**').

The CCO imposed a total fine of \$55,000 (plus GST) for the Contravention.

The circumstances of this matter are:

On 15 June 2023, UBS failed to settle an Overnight Margin call of USD 24,088,157 ('**Funds**') by the prescribed time of 4.30am AEST. The Overnight Margin was subsequently settled at approximately 5.15am ('the **Event**').

The delay in settling the Overnight Margin call initially arose from human error. This occurred when the relevant payment queue in one of UBS's payment systems was inadvertently closed, before the Funds could be cleared, by an employee based in the Payments Team in Poland in the course of their end-of-day handover routine to the Payments Team based in Switzerland.

The delay in clearing the Funds caused by this error was exacerbated by UBS not having an adequate escalation process in place to prevent the Contravention. Whilst UBS has demonstrated that it had a Standard Operating Procedure ('**Procedure**') in place during the relevant time, that Procedure was not adequately embedded and did not include an appropriate monitoring or escalation process, which in turn contributed to the Contravention.

UBS has since taken effective remedial actions by updating its Procedure to address the escalation inadequacies.

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

- (a) The RBA has determined Financial Stability Standards ('**FSS**') for licensed clearing facilities such as ASX Clear (Futures) ('**CCP Standards**'). Under Standard 16 of the CCP Standards, central counterparties such as ASX must identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures and controls.

Given the important role margins serve to protect the integrity of ASX's markets and facilities, as a central counterparty ASX is required to establish and rigorously enforce relevant rules and timelines, such as ASX CFR 45.1, for margin collections and payments.

- (b) Where a Clearing Participant fails to meet any obligation under the ASX CFR, or fails to pay any Initial Margins, Intraday Margins, or Daily Settlement Amounts, such failure may constitute an event of default (per ASX CFR 71.3 (a) and ASX CFR 71.3(c), respectively).
- (c) In accordance with the CPP Standards, ASX CFR Guidance Notes 1 and 9 establish that, as a component of the requirement on a participant to have adequate processes to comply with its obligations under the ASX CFR, clearing participants are expected to document and implement their key processes for meeting their obligations under the ASX CFR, including key processes for offshored activities and processes for monitoring and supervising those offshored activities. In this context, key processes include a participant ensuring it meets its initial margin and daily settlement amounts, as well as any intra-day and extra margins by monitoring offshored margin payment obligations through appropriate management supervision processes, including ensuring margin payments are processed by the proscribed time and appropriate arrangements are in place so that the relevant responsible employees are contactable and responsive.
- (d) The Contravention was inadvertent and unintentional.

- (e) Notwithstanding that the Contravention was inadvertent and unintentional, ASX is of the view that the Contravention of this margin payment obligation is one which ought to have been prevented or mitigated by appropriately embedded processes, including adequate escalation arrangements.
- (f) UBS otherwise had documented processes and procedures in place to meet its margin obligations under the ASX Clear (Futures) Operating Rules.
- (g) UBS did not derive a financial benefit or other commercial advantage from the Contravention.
- (h) UBS did not act unconscionably towards, or otherwise take advantage of, clients or counterparties.
- (i) UBS demonstrated a cooperative stance with ASX in its investigations of the Contravention.
- (j) UBS has undertaken prompt and effective remedial action, including by enhancing its relevant procedures.
- (k) UBS has a strong history of compliance with ASX Clear (Futures) Operating Rules.

Sanction Guidelines

The CCO determined that, given the circumstances in this matter, a fine of \$55,000 (plus GST) was an appropriate sanction.