

### **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 June 2024. Investigations in relation to other enforcement matters are ongoing.

### **Enforcement Decision**

#### **Goldman Sachs Australia Pty Limited – Non-compliance with Securities Lending Reporting Obligations**

ASX Limited's Chief Compliance Officer imposed a penalty of \$45,000 (plus GST) on Goldman Sachs Australia Pty Limited for contraventions of:

- (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 all times continue to satisfy the admission requirements in ASX SR 4.3.1(h) and 4.18.1 to have adequate resources and processes to comply with its obligations under the rules in this regard.

Further details in respect of this matter are set out in the following circular:

<https://www.asx.com.au/content/dam/asx/about/asx-compliance/disciplinary-notices/2024/disciplinary-notice-goldman-sachs-australia-pty-ltd.pdf>

### **Alleged Minor Infringement Notices**

In two separate enforcement actions, ASX Limited's Chief Compliance Officer imposed penalties of \$20,000 (plus GST) each on two Participants in relation to alleged contraventions of:

- (a) ASX 24 Operating Rule ('**ASX24 OR**') 3713(a) and its related procedure, being its obligation to effect all designations and allocations by the prescribed times; and
- (b) ASX24 OR 1400(a), being its obligation to at all times continue to satisfy the admission requirements set out under ASX 24 Operating Rule 1000(d) and its related procedure, being to have adequate resources and processes to comply with its obligations under ASX 24 Operating Rule 3713(a) and its related procedure.



In both these decisions, the Chief Compliance Officer accepted that inherent challenges exist for participants in meeting their obligations under ASX24 OR 3713(a) where participants receive trades which are not supported by a client confirmation and / or instructions, and indicated that such circumstances would be deemed a material mitigating factor for any resulting non-compliance with ASX24 OR 3713(a).

Instead, in both enforcement actions the alleged contraventions arose from identified deficiencies related to each participant's offshoring arrangements, and specifically their policies and procedures governing those arrangements.

### **Warning Letter**

#### **Failure to Settle CMM & ETO Margin Obligations on Time**

ASX has issued a warning letter to a Participant raising concerns that it may have breached both ASX Clear Operating Rules 12.17.1 and 12.17.5 in relation to the late settlement of its CMM and ETO margin obligations.

The RBA has determined the Financial Stability Standards ('FSS') for licensed clearing facilities such as ASX Clear ('CCP Standards'). Under Standard 6 of the CCP Standards, the RBA stipulates that central counterparties such as ASX are required to establish and rigorously enforce timelines for margin collections and payments, as well as set appropriate consequences for the failure by participants to pay within the required timeframe.

On 15 April 2024, the Participant was required to pay ASX Clear Pty Ltd ("ASX Clear") two margin payments by 10:30am (AEST). These margin payments were not settled until 10:42am, being 12 minutes late.

The root cause for the alleged breach was the Participants inability to access the Austraclear payment system in a timely manner and appeared to result from human error. The Participant has in response undertaken a number of comprehensive remediation measures.

Clearing Participants' processes for meeting margin obligations to ASX are considered key processes under ASX Clear organisational requirements. It is ASX's expectation that all margin settlement processes, including contingencies, are tested on a regular basis to ensure they remain up to date and that the Participant is prepared to respond to any issues which may delay payment. ASX expects that these processes and their testing will take into account potential system access issues.