



6 July 2009

ASX Markets Supervision (ASXMS) Quarterly Activity Report – June 2009

Activity	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
Total company announcements	26,000	25,268	33,249	32,355	31,202
Number of new listings	3	8	9	25	23
Number of delistings	20	16	19	17	19

- New listings activity remained low in the June quarter despite a modest improvement in the equity market. In contrast, the level of secondary capital raised in Q4 FY09 was higher than the previous quarter, at \$28.4 billion compared to \$18.2 billion in Q3 FY09. Many of these secondary raisings were accelerated entitlement offers that involved diverse supervisory considerations including relating to disclosure, waiver applications, trading halts and the settling of corporate action timetables.
- 20 entities were delisted in Q4 FY09. The vast majority of delistings followed the completion of takeovers/mergers, the redemption of all quoted securities, or security holder approval.

As at end of quarter	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
Listed entities supervised	2,121	2,138	2,146	2,155	2,148
Participants ¹ – ASX, ACH, ASTC	182	179	189	190	183
Participants – SFE, SFECC	37	37	35	33	30

- The number of SFE Participants stabilised over the reporting period. The increased activity observed in Q1 and Q2 FY09 of Local Participants applying to convert to Proprietary Full Participant status has, for the moment at least, abated.
- ASXMS continued its review of the timeliness of lodgement of Directors' Interest Notices. The results of the review of 3,393 Directors' Interest Notices lodged between 1 January and 31 March 2009 was released on 30 April 2009. An overall improvement in the compliance rate suggests that Directors are more aware of their reporting obligations and the trading policies of their companies.

Where directors were identified as not having complied, ASXMS contacted or wrote to the listed entity concerned and released replies to ASXMS enquiries to the market. 96 potential breaches of the Corporations Act for failing to disclose to the market within 14 calendar days were also referred to ASIC. 37 of these 96 were on-market trades.

- On 14 May 2009, ASXMS released the results of its first public review of disclosure by listed mining entities of their compliance with the JORC Code over a six month period to 31 March 2009. A review of

¹ Total number of active Participants only.

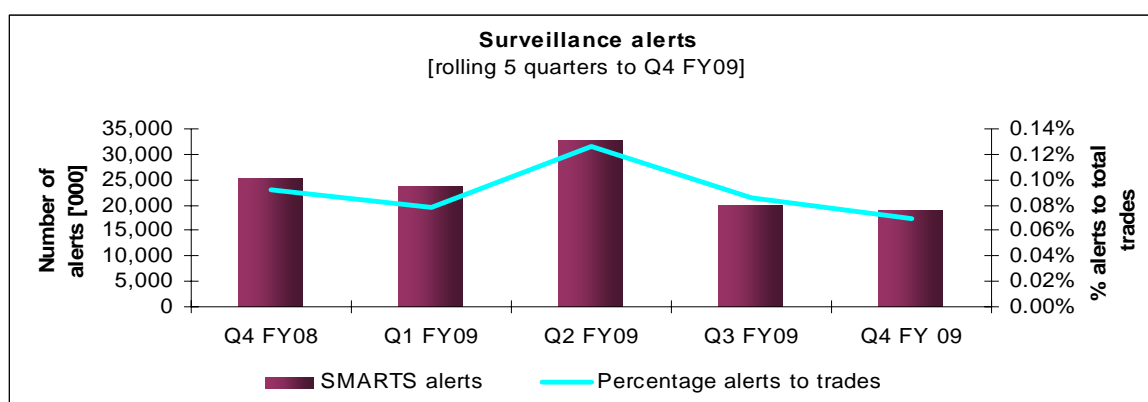
approximately 5,200 announcements found that 6% of announcements (312) contained a total of 333 instances of material non-compliant reporting by 246 entities. The most common breach was a deficient or missing Competent Person Statement. ASXMS took immediate action to ensure that entities provided compliant or clarifying announcements to correct material breaches. Significant breaches were dealt with by "please explain" letters, with company responses released to the market.

Waivers granted	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
Listing Rules	194	169	175	135	124
Market Rules	2	0	0	0	0
ASTC and ACH Rules ²	7	10	0	0	1
SFE Operating Rules	5	15	11	6	10
SFE Clearing Rules	4	2	1	1	0

- There were 194 Listing Rule waivers granted in Q4 FY09. Many of the waivers granted related to issuers undertaking capital raisings via share purchase plans up to \$15,000 and accelerated entitlement offers.
- During the quarter, 2 waivers were granted to Market Rules. One waiver related to a foreign domiciled statutory trust seeking trading status for AQUA products issued pursuant to its product disclosure statement. The second waiver waived the requirement in the definition of "ETF" in ASX Market Rule 2.10 for an ETF to be a "registered managed investment scheme" provided it met other requirements defined in the Rules.
- 6 of the 7 waivers of ASTC Rules were granted to listed entities. These waivers were granted to foreign domiciled entities listed on multiple exchanges to accommodate differences in corporate action timetables prescribed by exchanges.
- The trend in exemptions granted to SFE Operating and Clearing Rules has returned to normal levels over the period. This reflects the lack of a significant financial reporting deadline during the period.

Market surveillance

Real-time



- There were 18,986 alerts³ in the quarter. This represents a fall back to more normal levels and is well below the high numbers seen in the December quarter which was a period of extreme market volatility.

² Statistics for waivers under the ASTC Rules granted to listed entities are from 1 Jan 2009.

³ The ASXMS surveillance system monitors real-time trading information and highlights any unusual price or volume movements in the form of alerts.

Insider trading and market manipulation

- As at the end of June 2009, Surveillance had 21 open enquiries - 14 matters related to insider trading, 5 to market manipulation, 1 to disorderly market and 1 to trade reporting.

Issuer monitoring

Continuous disclosure (CD)⁴

Activity ⁵	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
CD queries made by ASXMS	224	240	224	173	272
Price queries made by ASXMS	243	211	109	71	147
Total CD and price queries made by ASXMS	467	451	333	244	419
Announcements made following CD query	274	238	203	120	246
Trading halts at company's request	323	206	190	200	282
Trading halts following query by ASXMS	23	17	13	2	17
Suspensions at company's request	30	28	24	35	32
Suspensions imposed by ASXMS for breach of the Listing Rules	8	32	36	13	21
Aware letters ⁶ sent by ASXMS	21	27	16	13	36

- There were 224 continuous disclosure queries and 243 price queries during the quarter. The results are in line with previous quarters' activities.
- During the quarter, 8 entities were suspended by ASXMS for breaching the Listing Rules compared to 32 entities suspended in Q3 FY09 for the same reason. The previous quarter's result included 23 entities automatically suspended for not lodging financial accounts by the due date.
- There were 323 trading halts requested by entities during the quarter. A large number of the trading halts were requested in the context of the entity undertaking a material equity fund raising.

ASX Markets Participant monitoring

Matters commenced	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
ASX Participant-related enquiries ⁷ commenced	190	180	506	190	115
ASX Participant-related investigations commenced	13	24	33	22	38

⁴ ASXMS raises continuous disclosure queries with listed entities when it has concerns that the entity may not be in compliance with its continuous disclosure obligations as set out in Listing Rule 3.1. Examples include queries made following broker or media reports. Price queries are a specific category of queries which are raised as a result of unusual movement in a listed entity's share price or trading volume that has been detected by ASXMS's market surveillance systems.

⁵ Note that activity data between FY08 and FY09 are not strictly comparable for a range of reasons including changes made to Query and Announcement classifications.

⁶ Aware letters are letters sent by ASXMS following an announcement by a listed entity where ASXMS asks for details of when the listed entity became aware of the material information contained in the announcement.

⁷ Matters include ad hoc queries, on-site reviews, self assessments, spot reviews and queries arising from complaints made against a Participant.

- Participant-related enquiries commenced have fallen back to normal trend levels. The spike in ASX Participant-related enquiries commenced in Q2 FY09 was due to the legislative changes in the reporting of short sale transactions to ASX and the consequent monitoring of the accuracy of those reports.
- The decline in the number of investigations commenced is generally reflective of the decline in the incidence of potential market manipulation and Participant-related enquiries falling back to normal trend levels.
- In April 2009, ASX introduced a market rule to require brokers to alert retail clients of the need to inform themselves of the rights and obligations associated with trading partly paid securities. This reinforced the existing provisions of the Corporations Act applying to brokers that require the disclosure of risks associated with the trading of financial products.

Futures supervision and capital monitoring

Matters commenced	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
SFE Participant-related matters ⁸ commenced	12	12	14	23	18
SFE Participant-related investigations commenced	18	28	29	40	41

- All futures expiry processes in the June quarter were orderly.
- Capital returns monitoring of ASX and ACH Participants was issues-free during the quarter.
- The fall in the number of SFE Participant matters and investigations commenced is correlated with the decrease in turnover in derivatives markets, particularly in option volumes.

Enforcement

Referrals to ASIC	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
Total referrals ⁹ to ASIC	22	21	23	22	23
Which include the following breaches:					
Continuous disclosure	4	5	5	6	5
Market manipulation	0	6	4	4	4
Insider trading	12	8	4	7	7
Other ¹⁰	8	5	14	6	10

- The market continued its recovery during the June quarter. The S&P/ASX 200 index rose 837 points, or 27%, from its low in March. This may explain a decline in the incidence of potential market manipulation and associated referrals to ASIC during the quarter. ASXMS has observed that manipulative activity tends to be less evident when share prices are rising.
- The increase in the number of potential insider trading referrals may be partly due to an increase in the level of corporate activity. The June quarter saw the announcement of some major takeovers. Trading prior to corporate transactions is closely examined by ASXMS.

⁸ Includes inspections, exemption requests, financial return reviews, self assessments and other ad hoc and administrative reviews.

⁹ A single referral may comprise more than one potential breach.

¹⁰ "Other" included potential breaches of the Corporations Act including matters relating to short selling, providing false information or false and misleading statements, and breach of Directors' Interest Duties.

Disciplinary Tribunal

Matters commenced	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
Matters received by the Disciplinary and Appeal Tribunal during the quarter	12	7	5	5	2
Disciplinary Circulars released during the quarter	4	3	7	7	7
Disciplinary matters in progress as at the end of the quarter	18	10	8	17	13
Fines imposed during the quarter (excl GST)	\$290,000	\$80,000	\$162,500	\$330,000	\$200,000

- The Disciplinary and Appeal Tribunal determined 4 matters in the June 2009 quarter, imposing a total of \$290,000 in fines against four Participants.
- Bell Potter Securities Limited and Australian Investment Exchange Limited were fined \$20,000 each for placing orders on behalf of clients which resulted in a market that was not fair and orderly.
- Value Nominees Pty Limited was fined \$15,000 for a settlement rule breach involving the failure to transmit a valid originating message to apply a holder record lock under that holder record within one business day of receiving notice of death of the relevant holder.
- The Appeal Tribunal allowed an appeal by ASXMS against State One Stockbroking Limited for manipulative trading as principal which had the effect of creating a false and misleading appearance of active trading, as well as for unprofessional conduct where the conduct involved a substantial or consistent failure to reach reasonable standards of competence and diligence. As a result of the appeal, the total fines imposed were increased from \$175,000 to \$235,000.

In its findings, the Appeal Tribunal noted that the high standards of commercial probity expected of licensed Market Participants underpin trust and confidence in the market. Therefore, contraventions involving any dishonesty, lack of probity or unprofessional conduct should result in very substantial penalties. In determining what is substantial the Appeal Tribunal noted that, firstly, the "penalty should constitute a real punishment proportionate to the deliberation or degree of recklessness with which the contravention occurred. A punishment, by definition, involves pain or loss." Secondly, the penalty should have a deterrent effect capable of influencing the conduct of others.

ASIC action arising from ASXMS referrals

During the June quarter, ASIC action as a result of prior ASXMS Surveillance referrals included:

- Mukesh Panchal, company secretary of QGC Ltd, was sentenced to two years gaol for insider trading in QGC prior to the takeover of QGC.
- John O'Reilly, a director of Lion Selection Group Ltd, was charged with insider trading in Indophil Resources Ltd prior to a takeover of Indophil. Lion Selection was a major shareholder of Indophil and was aware of the proposed takeover before it was announced. Mr O'Reilly allegedly purchased Indophil after he became aware of the proposed takeover in his capacity as a director of Lion Selection.
- Mr Gregory Paul Leather of Leichhardt, NSW, appeared in the Downing Centre Local Court on five charges brought by ASIC. ASIC alleges that between December 2005 and May 2006, Mr Leather carried out a number of transactions in relation to shares in listed company, Harvest Living Limited (Harvest), specifically, the entry or amendment of bids on the ASX. According to ASIC, these transactions had the effect or likely effect of creating or maintaining an artificial share price in Harvest.

ASXMS Education and Research Program

- Fines imposed by the Disciplinary Tribunal since 1 January 2007 have been directed to the funding of the ASXMS Education and Research Program. The Program is focused on raising awareness of current supervisory issues and promoting compliance with ASX's Operating Rules. It supplements ASXMS's existing schedule of regular presentations, road shows and newsletters to listed entities and ASX group participants.

Education and Research Program	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09	Q4 FY08
Events held	52	1	10	2	Nil
Persons in attendance*	1,653	44	884	382	Nil

* Attendance figures - in some instances, estimates are used based upon numbers registered to attend the event.

Educational events

- In the last quarter, as previously, partnerships with a number of organisations were undertaken to deliver education relevant to ASX's stakeholder groups aimed at improving knowledge of ASX's supervisory requirements across the markets it operates. Educational events included:
 - Market manipulation workshops in partnership with the Securities and Derivatives Industry Association;
 - A compliance forum for futures participants and a guide to obligations relating to expiry dates in partnership with the Australian Futures Markets Association;
 - A course for listed company directors in partnership with the Australian Institute of Company Directors;
 - A seminar on analyst forecasts and continuous disclosure in partnership with the Australasian Investor Relations Association;
 - A series of seminars on mining entity reporting in partnership with the Joint Ore Reserves Committee;
 - A workshop on mining entity reporting for company secretaries in partnership with Snowden;
 - Financial reporting seminars in partnership with the Institute of Chartered Accountants in Australia;
 - A series of seminars on risk management consistent with the ASX Corporate Governance Council Principle 7 with Deloitte and Blakiston & Crabb; and
 - A course on continuous disclosure in partnership with Corporate Compliance Partners.

Research

- Funding has been committed to a research program on corporate governance to be conducted by a partnership of universities, conditional upon receiving a federal government grant for the balance of the funding.

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