



6 October 2009

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

Activity	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
Total company announcements	30,791	26,000	25,268	33,249	32,355
Number of new listings	13	3	8	9	25
Number of de-listings	39	20	16	19	17

- The number of delistings for the quarter includes 17 entities removed from the official list on 31 August 2009 in accordance with listing rule 17.15 for failing to pay annual listing fees for the year ended 30 June 2010.
- The number of new listings improved on the preceding quarter during a period in which there was general improvement in equity markets.

As at end of quarter	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
Listed entities supervised	2,095	2,121	2,138	2,146	2,155
Participants ¹ – ASX, ACH, ASTC	188	182	179	189	190
Participants – SFE, SFECC	37	37	37	35	33

- For the first time, ASXMS extended its annual review of corporate governance disclosures to include listed entities with a 31 December financial year-end. This review provided the first full-year results of compliance with the revised ASX Corporate Governance Principles and Recommendations which were released in August 2007. Here, a different methodology was adopted with emphasis on reviewing reporting in accordance with the substantive or practice-based Recommendations, as opposed to the information Recommendations at the end of each Principle. The overall reporting level against the practice-based Recommendations for 31 December 2008 year-end entities was 93.4%.

Waivers granted	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
Listing Rules	328	194	169	175	135
Market Rules	0	2	0	0	0
ASTC and ACH Rules ²	8	7	10	0	0
SFE Operating Rules	23	5	15	11	6
SFE Clearing Rules	1	4	2	1	1

- There were 328 Listing Rule waivers granted in Q1 FY10, a 69% increase on the previous quarter. Many of the waivers granted were technical in nature. They related to entities undertaking capital raisings

¹ Total number of active Participants only.

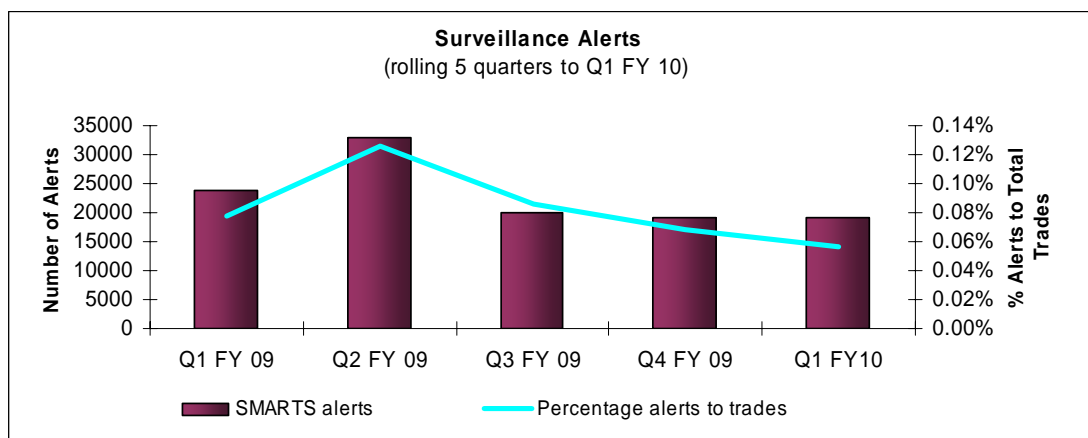
² Statistics for waivers under the ASTC Rules granted to listed entities are from 1 January 2009.

through share purchase plan offers up to \$15,000 permitted under the revised ASIC class order, and also to accelerated entitlement offers. ASX has commenced Listing Rule amendments to align the relevant Listing Rule with the revised class order limit.

- Eight waivers of the ASTC Rules were granted to four foreign-domiciled entities listed on multiple exchanges to accommodate differences in corporate action timetables prescribed by different exchanges.
- The steep rise in exemptions granted in respect of the SFE Operating Rules in the quarter was mainly due to a number of financial return exemptions granted to Proprietary Full Participants that required additional time to prepare their annual audit certificates, having not completed one previously.

Market surveillance

Real-time



- The market continued its rise which began in March 2009 and the S&P/ASX 200 has gained approximately 53% since then.
- There were 19,114 alerts³ in the quarter ending 30 September 2009 compared to 18,986 alerts triggered in the previous quarter. The number of alerts generated on a daily basis in Q1 FY10 was generally stable, with the average number of alerts being around 280 per day.

Insider trading and market manipulation

- As at the end of September 2009, ASXMS Surveillance had 18 open enquiries – 13 matters related to insider trading, four to market manipulation and one to a trade reporting issue. Of the 10 Surveillance referrals sent to ASIC during the quarter, seven related to insider trading, two to market manipulation and one to directors' interest notices.

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

Issuer monitoring

Continuous disclosure (CD)⁴

Activity ⁵	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
CD queries made by ASXMS	191	224	240	224	173
Price query-related activities ⁶	272	243	211	109	71
Total CD and price query activities	463	467	451	333	244
Announcements made following CD query	233	274	238	203	120
Trading halts at entity's request	366	323	206	190	200
Trading halts following query by ASXMS	21	23	17	13	2
Suspensions at entity's request	41	30	28	24	35
Suspensions imposed by ASXMS for breach of the Listing Rules	5	8	32	36	13
Aware letters ⁷ sent by ASXMS	16	21	27	16	13

- There were 191 continuous disclosure queries and 272 price query-related activities during the quarter.
- There were 387 trading halts applied to entities during the quarter, of which 21 were a result of an ASXMS query. Many of the trading halts were requested by entities in the context of the entity undertaking a material capital raising.

ASX Markets Participant monitoring

Matters commenced	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
ASX Participant-related enquiries ⁸ commenced	247	190	180	506	190
ASX Participant-related investigations commenced	17	13	24	33	22

- Participant-related enquiries commenced are largely consistent with 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.

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 Price query-related activities include the original price query referral from the Surveillance unit and any follow-up action taken within the Issuers unit (usually phone-calls).

⁷ 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.

⁸ Matters include ad hoc queries, on-site reviews, self assessments, spot reviews and queries arising from complaints made against a Participant.

- During the quarter ASXMS commenced a review of Participants' breach registers resulting in an increase in Participant-related enquiries commenced. Approximately 91 Participants were given notice to provide information for this review.
- In September 2009 ASX introduced market and clearing rules to strengthen the protection of client money held in trust by Participants.
- The number of investigations commenced is generally reflective of the decline in the incidence of potential market manipulation.

Futures supervision and capital monitoring

Matters commenced	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
SFE Participant-related matters ⁹ commenced	18	12	12	14	23
SFE Participant-related investigations commenced	22	18	28	29	40

- All futures expiries in the September quarter were conducted in an orderly manner.
- There was a substantial increase in Commonwealth Government bond issuance during the last quarter. As part of its normal course of business, ASX has been monitoring the operational processes surrounding expiry. This monitoring identified an unusual divergence between physical bond and futures prices in the months prior to the expiry of the September contracts. This divergence corrected itself as the quarter progressed and did not have any impact on the markets at expiry.
- Capital returns monitoring of ASX and ACH Participants was free of significant issues during the quarter.

Enforcement

Referrals to ASIC	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
Total referrals ¹⁰ to ASIC	18	22	21	23	22
Which include the following potential breaches:					
Continuous disclosure	4	4	5	5	6
Market manipulation	2	0	6	4	4
Insider trading	8	12	8	4	7
Other ¹¹	6	8	5	14	6

- Eighteen referrals relating to 20 potential breaches were sent to ASIC in Q1 FY10. This is approximately 18% less than the previous quarter (22 referrals) and the previous corresponding quarter in 2009 (22 referrals).
- The majority of the matters referred to ASIC were in relation to breaches of continuous disclosure (4) and breaches relating to insider trading (8). There were two suspected breaches of market manipulation sent to ASIC. Other breaches referred to ASIC included unauthorised discretionary trading; providing false information and/or or making false and misleading statements; and failure by director/s to lodge directors' interest notices.

⁹ Includes inspections, exemption requests, financial return reviews, self-assessments and other ad hoc and administrative reviews.

¹⁰ A single referral may comprise more than one potential breach.

¹¹ "Other" included potential breaches of the Corporations Act including matters relating to short selling, providing false information or false and misleading statements, and failure by director/s to lodge director's interest notices within the statutory time period.

- The market's continued recovery during the September quarter may have contributed to the low numbers of manipulation referrals to ASIC. Insider trading referrals were also low as the level of corporate news and activity appeared to decline.

Disciplinary Tribunal

Matters commenced	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
Matters received by the Disciplinary and Appeal Tribunal during the quarter	9	12	7	5	5
Disciplinary Circulars released during the quarter	11	4	3	7	7
Disciplinary matters in progress as at the end of the quarter	13	18	10	8	17
Fines imposed during the quarter (excl GST)	\$1,625,000	\$290,000	\$80,000	\$162,500	\$330,000

- During the September quarter the Disciplinary Tribunal determined 11 matters, imposing a total of \$1,625,000 in fines against 10 Participants.
- Significantly, during the quarter the Disciplinary Tribunal found that Tricom Equities Limited (Tricom) had committed 10 contraventions of ASX Operating Rules over an extended period of time. Some of the contraventions were found to have been so significant and serious that the Tribunal imposed the highest financial penalty available at the time the contraventions occurred - a total fine of \$1,350,000 plus GST. The breaches ranged from Tricom's inability to meet its payment obligations within the time required through to blatant and unmistakable market manipulation. The contravening conduct spanned a period from 30 December 2005 to 31 October 2008.

In the Tribunal's view the most important function of the ASX and the Operating Rules is to maintain the reputation and integrity of the market. Tricom's contravening conduct had the potential to seriously undermine the integrity of the market and the level of sanction must take that into account, requiring the imposition of the maximum financial penalty. The substantial sanctions imposed by the Tribunal constitute a real punishment on Tricom and send a strong deterrent message to other Market Participants.

- MF Global Australia Limited was fined \$30,000 for breaching various SFE Operating Rules. This was the first Disciplinary matter for breaches of SFE Operating Rules since the integration of the disciplinary processes in March 2008.
- Macquarie Securities (Australia) Pty Ltd was twice fined for failing to settle trades within three business days. Macquarie Securities was fined \$20,000 on both occasions.
- Other breaches included breaches of the T+3 Rule; allowing non-Designated Trading Representatives to submit trading messages into the trading platform, and order record breaches.

ASIC action arising from ASXMS referrals

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

- A former director of Lion Selection Ltd facing charges of insider trading, breach of directors' duties, and giving false and misleading information to a director of Lion Selection.

- ASIC banning an adviser from providing financial services for five years following an investigation into market manipulation of shares in Bill Express (now in administration).
- ASIC banning an adviser from providing financial services for seven years following an investigation into market manipulation, misleading and deceptive conduct, and unauthorised discretionary trading.

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 and regular program of presentations, road shows and newsletters to listed entities and ASX Group Participants.

Matters commenced	Q1 FY10	Q4 FY09	Q3 FY09	Q2 FY09	Q1 FY09
Events held	14	52	1	10	2
Persons in attendance*	303	2,197	44	889	382

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

Educational events

During the September quarter, educational campaigns commenced during previous quarters continued to be offered in partnership with industry organisations. These included:

- Market manipulation workshops in partnership with the Securities and Derivatives Industry Association;
- Courses for listed company directors in partnership with the Australian Institute of Company Directors;
- Seminars on mining entity reporting in partnership with the Joint Ore Reserves Committee; and
- Following on from the seminars held in the last quarter, a series of workshops on risk management consistent with the ASX Corporate Governance Council Principle 7, with Deloitte and Blakiston & Crabb.

Research

- Research was commenced into Participant capital requirements, comparing ASX with overseas jurisdictions and other local frameworks.