

KEY TOPICS

1. Regulatory action by ASX Group.
2. Regulatory action by other bodies.

ASX Market Rules

Rule 4.4.1

Cross-reference

Guidance Note History

Issued:
2 November 2007

NOTIFICATION OF REGULATORY ACTION

Purpose

The purpose of this Guidance Note is to outline ASX policy in relation to the obligation to notify ASX of regulatory action against a Participant.

Background

ASX Market Rule 4.4.1 requires that, if a Market Participant is informed by the Commission or its delegates (or any other person authorised under the Corporations Act), an exchange, a market operator, a clearing and/or settlement facility or a regulatory body that action is being or may be taken by it against the Market Participant or any of its Employees, its delegates or an authorised person under the Corporations Act, the Market Participant must notify ASX in writing on or before the next Business Day of full details of that information.

ACH Clearing Rule 19.2.3(c) requires that a Regulated Person must notify ACH in writing immediately if the Regulated Person or any of its Employees is the subject of any regulatory or disciplinary action by any market operator, another clearing and settlement facility, the Commission or any other regulatory authority (or if the Regulated Person becomes aware that any Market Participant which clears Market Transactions through the Regulated Person is the subject of any action of that type).

ASTC Settlement Rule 12.18.1(c) requires that a Participant must give Notice of non-Compliance to ASTC immediately upon the Participant or any of its Employees being the subject of any regulatory or disciplinary action by any market licensee, another clearing and settlement facility, the Commission or any other regulatory authority.

SFE Rules 2.2.10(c) and 2.3.10(c) require that a Participant shall notify SFE immediately upon becoming aware that ASIC or another regulatory body is investigating and/or instituting proceedings against it.

ASX, ACH, ASTC, SFE and SFECC each have obligations pursuant to:

- sections 792B(2)(b) and 821B(2)(b) of the Corporations Act to notify ASIC of any disciplinary actions taken; and
- sections 792B(2)(c) and 821B(2)(c) of the Corporations Act to notify ASIC if it is suspected a person has committed, is committing, or is about to commit, a significant contravention of the Operating Rules or the Corporations Act.

Process for notification of regulatory action taken by ASX and SFE groups

Prior to the merger of the ASX and SFE groups, compliance with the relevant Rules referred to above required notification to ASX group of any disciplinary action taken, or to be taken, by SFE group and notification to SFE group of any disciplinary action taken, or to be taken, by ASX group.

As a result of the merger of ASX and SFE groups, the various licensees within the merged group are aware of the regulatory actions taken, or to be taken, pursuant to the ASX, ACH, ASTC, SFE and SFECC Operating Rules. Within the merged ASX group:

- Interaction within ASX promotes awareness of regulatory action to be taken against a Participant; and
- all notifications of any disciplinary action taken by ASX, ACH, ASTC, SFE and SFECC pursuant to sections 792B(2)(b) and (c) and 821B(2)(b) and (c) of the Corporations Act are now centralised through the Enforcements unit which promotes awareness of regulatory action taken against a Participant.

As a result, it is not necessary for Participants in more than one of ASX, ACH, ASTC, SFE and SFECC to notify the merged ASX group of actions taken, or to be taken, by other licensees within the merged ASX group. That information is already known to the merged ASX group. For example, it is not necessary for a Participant recognised under both the ASX and SFE Operating Rules to notify ASX of actions taken, or to be taken, by SFE.

Process for notification of regulatory action taken by other regulators

The obligations to notify of other regulatory actions pursuant to the relevant Operating Rules remain. This may include, for example, actions taken, or to be taken, by ASIC, APRA, National Stock Exchange or any overseas exchange or clearing house of which the Participant is a participant or member.

Notifications may be in the form of separate notifications to each ASX group market operator and clearing and settlement facility operator on which the Participant is recognised or, alternatively, a single notification specifically addressed to all relevant ASX group market operators and clearing and settlement facility operators on which the Participant is recognised. Notifications may be made to compliance@asx.com.au.

Qualification

ASX has published this note to promote commercial certainty, and assist Market Participants. Nothing in this note necessarily binds ASX in the application of the Rules in a particular case. In issuing this note ASX is not providing legal advice and Market Participants should obtain their own advice from a qualified professional person in respect of their obligations. ASX may replace this Guidance Note at any time. Readers should contact ASX to ensure they have the latest version.