



ASIC

Australian Securities &
Investments Commission

Commonwealth of Australia Gazette

No. MDP03/12, Monday, 27 August 2012

Published by ASIC

ASIC Gazette

Contents

Markets Disciplinary Panel Infringement Notice

Recipient: Citigroup Global Markets Australia Pty Ltd

The recipient has complied with the infringement notice. Compliance is not an admission of guilt or liability; and the recipient is not taken to have contravened subsection 798H (1) of the Corporations Act 2001.

RIGHTS OF REVIEW

Recipients affected by the decision of the Markets Disciplinary Panel to give them an infringement notice under subsection 798H(1) of the *Corporations Act 2001* and Part 7.2A of the *Corporations Regulations 2001* administered by ASIC may have a right of review or may be entitled to have the infringement notice withdrawn. ASIC has published RG 216 to assist recipients to determine whether they have such rights – see RG 216.71 and RG 216.77 to 216.79. Copies of this document can be obtained from the ASIC website at www.asic.gov.au

ISSN 1445-6060 (Online version)
ISSN 1445-6079 (CD-ROM version)

Available from www.asic.gov.au
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PART 7.2A OF THE CORPORATIONS REGULATIONS 2001 INFRINGEMENT NOTICE

To: Citigroup Global Markets Australia Pty Ltd
Level 22, 2 Park Street
SYDNEY, NSW, 2000

TAKE NOTICE: The Australian Securities and Investments Commission ("ASIC") gives this infringement notice to Citigroup Global Markets Australia Pty Ltd, (ACN 003 114 832) ("Citigroup") under regulation 7.2A.04 of the *Corporations Regulations 2001* ("the Regulations"). To comply with this notice Citigroup must:

Pay a penalty to ASIC, on behalf of the Commonwealth, in the sum of \$30,000.

This infringement notice is given on 19 July 2012.

The unique code for this notice as required by paragraph 7.2A.06(b) of the Regulations is MDP31274/11.

Alleged contravention and penalty

Citigroup was an ASX Trading Participant at the relevant time and was therefore an entity required by subsection 798H(1) of the *Corporations Act 2001* ("the Act") to comply with the market integrity rules at that time.

Citigroup is alleged to have contravened subsection 798H(1) of the Act by reason of contravening Rule 5.9.1 of the *ASIC Market Integrity Rules (ASX Market) 2010* ("MIR 5.9.1"), which provides:

"A Market Participant must not do anything which results in a market for a Product not being both fair and orderly, or fail to do anything where that failure has that effect."

On the evidence before it, ASIC's Markets Disciplinary Panel was satisfied that:

- 1) At 9:52:59 on 20 May 2011 ("the Relevant Day"), Citigroup's Portfolio Trading desk received an order to buy 219,231 shares of Fantastic Holdings Limited (ACN 004 000 775) ("FAN") on behalf of a client. At 10:10:00, Citigroup's Sales Trading desk received an order from a client to sell 119,231 shares of FAN at \$2.40.

- 2) The two Orders were given to a Citigroup Designated Trading Representative ("DTR") who decided to execute a crossing. The market for FAN at this time was \$2.32/\$2.42/\$2.42 (Bid/Ask/Last Traded Price) and there was a total of 20,732 FAN in the bid schedule at prices between \$1.71 and \$2.32.
- 3) At 10:27:53, the DTR entered a priority crossing ("the Relevant Order") for 119,231 ordinary shares of FAN at a price of \$0.024 instead of \$2.40. Following its entry, the erroneously priced Relevant Order, transacted with the 20,732 FAN in the bid schedule at prices between \$1.71 and \$2.32. Citigroup executed a crossing of the residual 98,499 FAN at \$0.024.
- 4) As a result of the Relevant Order, the price of FAN fell from \$2.42 to \$0.024. This represented a decrease of 99% in the price of FAN.

By reason of Citigroup's placement of the Relevant Order on the Relevant Day, the Markets Disciplinary Panel has reasonable grounds to believe that Citigroup has contravened MIR 5.9.1 and thereby contravened subsection 798H(1) of the Act.

Maximum pecuniary penalty that a Court could order

The maximum pecuniary penalty that a Court could order Citigroup to pay for contravening the market integrity rule that Citigroup is alleged to have contravened is \$1,000,000.

Penalty under the Infringement Notice

The penalty payable under this infringement notice for the alleged contravention of subsection 798H(1) of the Act and therefore the total penalty that Citigroup must pay to the Commonwealth is \$30,000.

The penalty is payable to ASIC on behalf of the Commonwealth. Payment is made by bank cheque to the order of the "Australian Securities and Investments Commission".

In determining the appropriate penalty in this matter ASIC's Markets Disciplinary Panel took into account all relevant guidance in ASIC Regulatory Guide 216 and noted in particular the following:

- MIR 5.9.1 is aimed at ensuring a fair, open and transparent trading system, with a strict obligation imposed on Market Participants which requires that Participants do not do anything which results in a market for a product not being fair and orderly;
- The conduct appears to have been inadvertent on the part of the Citigroup DTR, rather than deliberate or reckless. Whilst it is accepted that the Relevant Order was entered in error, the DTR failed to enter the Relevant Order with appropriate care;
- On the Relevant Day, the DTR had recently moved to a new seat in the dealing room, using a new computer not set up with the appropriate pre-set limits and warnings of the DTR's previous computer, that would have triggered an alert when the Relevant Order was made and could have prevented it going into the market;
- Citigroup contacted the ASX within eighty seconds of the entry of the Relevant Order. Citigroup acknowledged that the Relevant Order was erroneously entered into the Market

and pursuant to ASX Operating Rules requested that ASX Market Control contact the counterparties to the buy side of the six Market Transactions in order to facilitate a cancellation of those trades;

- The timely action taken by Citigroup in contacting ASX market Control enabled resolution of the error and resumption of normal trading in FAN;
- Citigroup has co-operated with ASIC and attempted to address concerns arising from the investigation, by way of engagement with ASIC;
- Citigroup did not derive any actual or potential benefit from the contravention, nor did Citigroup cause any actual or potential damage to a third party;
- Citigroup agreed not to contest the matter, thereby saving time and costs that would otherwise have been expended;
- No relevant action has been taken against Citigroup in relation the market integrity rules. However, Citigroup contravened ASX Market Rule 14.1.1 on 1 March 2010, which was the predecessor to MIR 5.9.1.

Compliance with the Infringement Notice

Citigroup may choose not to comply with this infringement notice, but if Citigroup does not comply, civil proceedings may be brought against Citigroup in relation to the alleged contravention.

To comply with this infringement notice, Citigroup must pay the penalty within the compliance period. The compliance period:

- (a) starts on the day on which the infringement notice is given to Citigroup; and
- (b) ends 27 days after the day on which the infringement notice is given to Citigroup;

unless an application is made for its extension.

Citigroup may apply to ASIC for an extension of time to comply with this notice under regulation 7.2A.09 of the Regulations. If Citigroup does so, and the application is granted, the compliance period ends at the end of the further period allowed.

If Citigroup applies for a further period of time in which to comply with this notice, and the application is refused, the compliance period ends on the later of:

- (a) 28 days after the day on which the infringement notice was given to the recipient; and
- (b) 7 days after the notice of refusal is given to the recipient.

Citigroup may apply to ASIC for withdrawal of this notice under regulation 7.2A.11 of the Regulations. If Citigroup does so, and the application is refused, the compliance period ends 28 days after the notice of refusal is given to Citigroup.

Effect of issue and compliance with the Infringement Notice

The effects of compliance with this infringement notice are:

- (a) any liability of Citigroup to the Commonwealth for the alleged contravention of subsection 798H(1) of the Act is discharged; and
- (b) no civil or criminal proceedings may be brought or continued by the Commonwealth against Citigroup for the conduct specified in the infringement notice as being the conduct that made up the alleged contravention of subsection 798H(1) of the Act; and
- (c) no administrative action may be taken by ASIC under section 914A, 915B, 915C or 920A of the Act against Citigroup for the conduct specified in the infringement notice as being the conduct that made up the alleged contravention of subsection 798H(1) of the Act; and
- (d) Citigroup is not taken to have admitted guilt or liability in relation to the alleged contravention; and
- (e) Citigroup is not taken to have contravened subsection 798H(1) of the Act.

Publication

ASIC may publish details of this infringement notice under regulation 7.2A.15 of the Regulations.

**Susan Humphreys**

Counsel to the Markets Disciplinary Panel

with the authority of a Division of the Australian Securities and Investments Commission

Dated: 19 July 2012

Note: Members of ASIC's Markets Disciplinary Panel constitute a Division of ASIC as delegates of the members of the Division for the purposes of considering the allegations covered by this notice.