



ASIC

Australian Securities &
Investments Commission

Commonwealth of Australia Gazette
No. MDP05/13, Friday, 19 July 2013

Published by ASIC

ASIC Gazette

Contents

Markets Disciplinary Panel Infringement Notice

Recipient: Euroz Securities Limited

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Regulations 2001* administered by ASIC may have a right of review or may be entitled to have the infringement notice withdrawn.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)

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PART 7.2A OF THE CORPORATIONS REGULATIONS 2001 INFRINGEMENT NOTICE

To:

Euroz Securities Limited
Level 18, Alluvion
58 Mounts Bay Road
Perth WA 6000

TAKE NOTICE: The Australian Securities and Investments Commission ("ASIC") gives this infringement notice to Euroz Securities Limited, ACN 089 314 983 ("Euroz") under regulation 7.2A.04 of the Corporations Regulations 2001 ("Regulations"). To comply with this notice Euroz must:

Pay a penalty to ASIC, on behalf of the Commonwealth, in the sum of
\$35,000.

This infringement notice is given on 18 June 2013.

The unique code for this notice as required by paragraph 7.2A.06(b) of the Regulations is MDP30145/12.

The terms defined in Rule 1.4.3 of the ASIC Market Integrity Rules (ASX Market) 2010 have the same meaning when used in this notice, including those set out in the Appendix to this notice.

Alleged contravention and penalty

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

Euroz 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, the Markets Disciplinary Panel ("MDP") was satisfied that:

- 1) On 16 December 2011, at approximately 10:00am Australian Eastern Daylight Saving Time ("AEDST"), a DTR ("Euroz DTR") received an instruction to sell 6,521,700 ordinary shares in View Resources Limited, having ASX code ("VRE"), at a limit price of \$0.013 ("Relevant Instruction").
- 2) On 16 December 2011, at approximately 11:44am AEDST, the Euroz DTR entered an Order to sell 800,000 ordinary shares in Evolution Mining Limited, having ASX code ("EVN"), at a limit price of \$0.013, via Euroz's AOP system ("Relevant Order").
- 3) The entry of the Relevant Order was erroneous, as the Euroz DTR had meant to enter an Order to sell 800,000 VRE pursuant to the Relevant Instruction.
- 4) Immediately after the Relevant Order was entered into Euroz's AOP system, the following automated filter-generated warning message ("Alert") appeared on the Euroz DTR's computer screen:

"Last price (168.00) differs from the current price (1.3) by more than 100 price steps; Last price (168.00) differs from current price (1.3) by more than 20.00 percent."
- 5) The Euroz DTR acknowledged receipt of the Alert and thereby caused the Relevant Order to be entered into the Trading Platform.
- 6) The Relevant Order executed immediately in part, resulting in 35 Market Transactions ("Initial Transaction") at prices from \$1.675 down to \$1.250. Approximately five seconds later, the balance of the Relevant Order executed with a newly entered buy Order, resulting in a further Market Transaction for 530,008 EVN at a price of \$0.013. ("Final Transaction").
- 7) The price of the Final Transaction was 99% below the price at which EVN had traded prior to the entry of the Relevant Order.
- 8) The Final Transaction was subsequently cancelled by ASX because it fell within the Extreme Cancellation Range under its Operating Rules. A further four transactions comprising the Initial Transaction, were cancelled as follows:
 - (a) Three transactions were cancelled by ASX because they fell within the Qualifying Cancellation Range under its Operating Rules; and
 - (b) One transaction, being a Crossing, was cancelled by Euroz.

By reason of Euroz's entry of the Relevant Order into the Trading Platform on 16 December 2011, the MDP has reasonable grounds to believe that Euroz 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 Euroz to pay for contravening subsection 798H(1) of the Act by reason of contravening MIR 5.9.1, is \$1,000,000.

The maximum pecuniary penalty that may be payable by Euroz under an infringement notice given pursuant to subsection 798K(2) of the Act, is \$600,000.

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 Euroz must pay to the Commonwealth, is **\$35,000**.

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 this matter and the appropriate pecuniary penalty to be applied, the MDP took into account all relevant guidance, including ASIC Regulatory Guide 216 – *Markets Disciplinary Panel*, 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 not to do anything which results in a market for a product not being both fair and orderly;
- The misconduct had the potential to damage the reputation and integrity of the Market, as the Relevant Order caused the price in EVN to drop from around \$1.680 to \$0.013 – being a 99% decrease in the price of EVN;
- The breach was inadvertent on the part of Euroz, as the Euroz DTR failed to exercise an appropriate level of care and skill in placing the Relevant Order;
- An important aspect of the role of the DTR is to review and prevent the entry of Orders into the Trading Platform that could result in a market that is not both fair and orderly, including having proper regard to any internal alerts generated. This is a critical measure in maintaining the integrity of a market;
- In the MDP's view, all applicable and appropriate trading software generated filters and alerts ought be configured at all times by a DTR, as far as is practicable;
- The breach was self-reported to ASIC;
- Euroz did not derive any actual or potential benefit from the alleged breach;
- There was one breach of MIR 5.9.1;
- Euroz co-operated with ASIC throughout its investigation and did not dispute any material facts;

- Euroz took the following remedial measures to prevent recurrence of the breach;
 - Euroz introduced a new version of its AOP system which generates:
 - a second warning message that the DTR must acknowledge before an Order is sent to the Trading Platform; and
 - an Order entry warning message when the value of an Order that is to be executed exceeds a specified limit;
 - Euroz verbally counselled the Euroz DTR involved in the error, and reminded all DTRs of the importance of correctly entering all Orders.
- Euroz's minimal history of non-compliance, and the fact that Euroz's previous breaches involved substantially different rules to MIR 5.9.1; and
- Euroz agreed not to contest this matter, thereby saving time and costs that would otherwise have been expended.

Compliance with the Infringement Notice

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

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

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

unless an application is made for its extension.

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

If Euroz 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.

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

Effect of issue and compliance with the Infringement Notice

The effects of compliance with this infringement notice are:

- (a) any liability of Euroz 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 Euroz 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 Euroz 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) Euroz is not taken to have admitted guilt or liability in relation to the alleged contravention; and
- (e) Euroz 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 & Investments Commission

Dated: 18 June 2013

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.

Appendix – Defined Terms

"ASX" means ASX Limited (ACN 008 624 691).

"Automated Order Processing" ("AOP") means the process by which orders are registered in a Trading Participant's system, and, if accepted for submission into a Trading Platform by the Trading Participant submitted as a corresponding Trading Message without being keyed or rekeyed by a Designated Trading Representative ("DTR").

"DTR" means a Representative of the Trading Participant who has been authorised by the Trading Participant to submit Trading Messages to the Trading Platform on behalf of the Trading Participant.

"Market" means the market operated by the Market Operator under Australian Market Licence (Australian Stock Exchange Limited) 2002.

"Market Participant" means a Participant in the Market admitted under the Market Operating Rules.

"Order" relevantly means:

- (a) in relation to Cash Market Products, an instruction to purchase or sell Cash Market Products, or an instruction to amend or cancel a prior instruction to purchase or sell Cash Market Products; and

.....

"Trading Messages" means those messages submitted into a Trading Platform relating to trading functions, such as Orders, amendment or cancellation of Orders and the reporting or cancellation of Market Transactions on the Trading Platform.

"Trading Participant" means a Market Participant which has Trading Permission in respect of one or more products.

"Trading Permission" means the right to submit Trading Messages in a trading Platform.

"Trading Platform" means a facility made available by the Market Operator to Trading Participants for the entry of Trading Messages, the matching of Orders, the advertisement of invitations to trade and the reporting of transactions.