



ASIC

Australian Securities & Investments Commission

Enforceable Undertaking

Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

eStar Online Trading Limited
 ACN 087 737 068
 Level 12
 Chifley Tower
 2 Chifley Square
 Sydney NSW 2000

1. Background

- 1.1 eStar Online Trading Limited (eStar) is a publicly listed company that sells and supplies to clients (eStar clients) services that enable users to buy and sell securities using the internet (the trading platform).
- 1.2 eStar clients pay eStar an hourly fee for use of the trading platform, and also pay a fee per trade executed using the trading platform.
- 1.3 Barton Capital Securities Pty Ltd (ACN 066 231 507) (BCS), holds a dealers licence and provides execution services to eStar clients. These services enable orders placed by eStar clients on the trading platform to buy and sell securities, to be executed on the Australian Stock Exchange.
- 1.4 eStar does not currently hold a dealers licence but intends to apply to ASIC for a dealers licence.
- 1.5 Under section 780(1) of the *Corporations Law* a person must not carry on a securities business or hold out that the person carries on a securities business unless the person holds a dealers licence or is an exempt dealer.
- 1.6 ASIC considers that, by engaging in the conduct described in paragraph 1.1, eStar is carrying on a securities business and therefore requires a dealers licence.
- 1.7 eStar received legal advice that, by virtue of s93(5) of the *Corporations Law*, it does not need to hold a dealers licence itself and is entitled to rely on the dealers licence held by BCS.

2. Undertakings

2.1 Pursuant to section 93AA of the *Australian Securities and Investments Commission Act*, eStar undertakes, that by 5pm on 18 July 2001 it will cease conducting a business of dealing in securities or holding out that it conducts a business of dealing in securities, until such time as eStar holds a dealers licence.

2.2 In particular, until eStar holds a dealers licence, eStar undertakes that it will not:

- (a) make available, sell, supply, or offer to sell or supply the trading platform, to any person, other than a licensed securities dealer;
- (b) provide or continue to provide any good or service that enables persons to effect securities transactions using the internet, other than to a licensed securities dealer;
- (c) provide on its website any information or service in connection with securities other than to:
 - (i) state that eStar's trading platform is used by licensed securities dealers to deal in securities;
 - (ii) refer users to a web site of the licensed securities dealer that eStar has authorised to use the trading platform;
- (d) accept or receive any fee or other remuneration for the use of the trading platform, with the exception of a licence fee received from a licensed securities dealer. For this exception to apply, the licence fee may not be calculated by reference to the number of trades executed using the trading platform.

3. Acknowledgments

3.1 eStar acknowledges that it has obtained legal advice in relation to the content and effect of this undertaking.

3.2 eStar acknowledges that ASIC:


- (a) may issue a media release on execution of this undertaking referring to its terms and the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this undertaking; and
- (c) will make this undertaking available for public inspection.


3.3 eStar acknowledges that this undertaking in no way derogates from the rights and remedies available to ASIC, or any other person or entity arising from any conduct described in this undertaking.

3.4 eStar acknowledges that ASIC's acceptance of an enforceable undertaking does not affect its power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary penalty order.

3.5 eStar acknowledges that this undertaking has no operative force until accepted by ASIC.


The Common Seal of eStar Online Trading Limited)
(ACN 067 737 068) was duly affixed to this undertaking)
on 13th July 2001 in the presence of and the sealing is)
attested by:)


.....
Director


.....
Director / Secretary

Accepted by the Australian Securities and Investments Commission pursuant to section 93AA of the *Australian Securities and Investments Commission Act* by its duly authorised delegate

Date this 13th day of July 2001


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Jamie Orchard
Director, Enforcement
South / West