

DISCIPLINARY MATTER – Euroz Securities Limited

Euroz Securities Limited (“Euroz”) has paid a penalty of **\$35,000** to comply with an infringement notice given to it by the Markets Disciplinary Panel (“MDP”). The penalty was for conduct which resulted in a market for a security not being both fair and orderly.

Background and circumstances

Euroz is alleged to have contravened subsection 798H(1) of the *Corporations Act 2001* (“Act”) by reason of contravening Rule 5.9.1 of the ASIC Market Integrity Rules (ASX Market) 2010 (“MIR 5.9.1”).

MIR 5.9.1 provides that:

“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 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 had reasonable grounds to believe that Euroz contravened MIR 5.9.1, and thereby contravened subsection 798H(1) of the Act which requires compliance with the market integrity rules.

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 penalty that may be payable under an infringement notice for an alleged contravention of that rule is \$600,000.

Penalty under the Infringement Notice

The penalty payable under the 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**.

Relevant factors

In determining this matter and the appropriate pecuniary penalty to be applied, the MDP took into account all relevant guidance 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.

The Markets Disciplinary Panel

The MDP is a peer review body that exercises ASIC's power to issue infringement notices and accept enforceable undertakings in relation to alleged breaches of the market integrity rules. The market integrity rules are made by ASIC and apply to market operators, market participants and prescribed entities under the Corporations Regulations 2001 (“Regulations”).

Additional regulatory information

Pursuant to subparagraph 7.2A.15(4)(b)(i) and (ii) of the Regulations, Euroz has complied with the infringement notice, such compliance is not an admission of guilt or liability, and Euroz is not taken to have contravened subsection 798H(1) of the Act.

Further information on market integrity infringement notices, the market integrity rules or the MDP is available in ASIC Regulatory Guide 216 – *Markets Disciplinary Panel* and ASIC Regulatory Guide 225 – *Markets Disciplinary Panel practices and procedures* or at <http://www.asic.gov.au> under “markets–supervision”, “markets–market integrity rules” and “Markets Disciplinary Panel”.