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Contents

Markets Disciplinary Panel: Infringement Notice

Recipient: Credit Suisse Equities (Australia) 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*.

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ASIC
Australian Securities & Investments Commission

MDP
Markets Disciplinary Panel

PART 7.2A OF THE CORPORATIONS REGULATIONS 2001
INFRINGEMENT NOTICE

To: Credit Suisse Equities (Australia) Limited (ACN 068 232 708)
Level 31 Gateway
1 Macquarie Place
SYDNEY NSW 2000

Matter: MDP 893/16
Date given: 14 February 2017

TAKE NOTICE: The Australian Securities and Investments Commission ("ASIC") gives this infringement notice to Credit Suisse Equities (Australia) Limited ("CSEAL") under regulation 7.2A.04 of the Corporations Regulations 2001 ("the Regulations").

To comply with this notice CSEAL must pay a penalty to ASIC, on behalf of the Commonwealth, in the sum of **$170,000.**

Unless a contrary intention appears, capitalised terms used in this notice have the same meaning as those defined in Rule 1.4.3 of the ASIC Market Integrity Rules (ASX Market) 2010 ("the Rules") as in force at the time of conduct.

Details of the alleged contravention

1. CSEAL was a Trading Participant in the Market operated by ASX at all relevant times and was required by subsection 798H(1) of the *Corporations Act 2001* ("the Act") to comply with the Rules.

2. Rule 5.6.1(1) of the Rules relevantly provided:

   A Trading Participant which uses its system for Automated Order Processing must at all times:

   (a) have appropriate automated filters, in relation to Automated Order Processing; and

   (b) ensure that such use does not interfere with:

      (i) the efficiency and integrity of the Market…

3. At all relevant times, CSEAL operated an Automated Order Processing ("AOP") system known as PrimeTrade that allowed clients to enter Orders into the Market.

4. The Markets Disciplinary Panel ("the MDP") has reasonable grounds to believe that CSEAL contravened Rule 5.6.1(1) and thereby contravened subsection 798H(1) of the Act in respect of the following conduct:

(a) between 1 August 2010 and 21 April 2016 (the "Relevant Period"), nine clients of CSEAL had the ability to enter Orders in relation to Options Market Contracts through the AOP system. During the Relevant Period, there were approximately 9,800 Orders for Options Market Contacts entered into the Market through the AOP system without any automated filters to determine limit price appropriateness. This equated to approximately 140 Orders per month;

(b) on 21 April 2016, a client of CSEAL entered the following three Orders (the "Relevant Orders") in XJOSP9 May 2016 4750 call Options Market Contracts ("XJOSP9") through the AOP system:

(i) an Order to sell 100 XJOSP9 at 21 points;

(ii) an Order to sell 100 XJOSP9 at 21 points; and

(iii) an Order to sell 50 XJOSP9 at 22 points;

(c) the Client mistakenly entered the Relevant Orders with a limit price referencing the June 2016 put Options Market Contracts instead of the May 2016 4750 call Options Market Contracts;

(d) the Relevant Orders were matched against opposing Orders at the relevant price levels, which resulted in 19 transactions at prices that were 96% below the Extreme Trade Range Reference Price of 491 points determined in accordance with the ASX Operating Rules Procedures in relation to exchange traded options;

(e) within 8 minutes of the Relevant Orders being entered, CSEAL notified ASX that the Relevant Orders were incorrectly entered. Within 5 minutes after receiving that notification, ASX advised the Market that the resulting transactions were under review. ASX cancelled the transactions within 45 minutes;

(f) despite the cancellation, the absence of price filters over the Relevant Period had the potential to interfere with the efficiency and integrity of the Market.

5. In considering this matter and the appropriate penalty, the MDP commented:

(a) Rule 5.6.1 is aimed at promoting confidence in the integrity of the Market. Appropriate price filters are fundamental protections to the integrity of the Market where an AOP system is used by a Trading Participant;

(b) CSEAL was careless in failing to identify that there were no automated filters in place to determine limit price appropriateness for a period of more than 5 years. The transactions on 21 April 2016 that brought the matter to the attention of CSEAL were an isolated incident but the underlying deficiencies had existed for an unacceptable period of time, despite CSEAL having provided AOP Annual Notifications in 2014 and 2015;

(c) CSEAL has principal responsibility for ensuring the appropriate automated price filters are in place. It is not reasonable for CSEAL to rely on the sophistication of

its options trader clients to ensure its trading does not interfere with the integrity of the Market. It is also not reasonable for CSEAL to rely on ASX having in place a process by which anomalous trades can be cancelled under the provisions dealing with Extreme Trade Range. The sophistication of its option trader clients, and the ASX cancellation procedures for Extreme Trade Range, are not substitutes for CSEAL's principal obligations as a Trading Participant;

(d) CSEAL has been sanctioned by the MDP on four separate occasions. On two of those occasions (15 April 2016 and 29 August 2012), CSEAL was sanctioned for alleged contraventions of Rule 5.6.1, where the penalties specified in the infringement notices were $74,000 and $52,000 respectively. On a third occasion (14 June 2013) CSEAL was sanctioned for alleged contraventions of Rules 5.6.3 and 5.9.1 for issues relating to its AOP filters, where the total penalty specified was $95,000. The past findings of the MDP in relation to filter deficiencies do not appear to have caused CSEAL to properly address those deficiencies. The MDP emphasises that repeat conduct, especially conduct of the same or similar kind, is likely to result in higher penalties being specified in infringement notices.

6. The MDP also noted that CSEAL:

(a) self-reported the conduct to ASIC (including the fact that there was no limit price filter for Orders placed via the AOP system for a period of more than 5 years), co-operated fully with ASIC during its investigation, and did not derive any benefit from the alleged contravention; and

(b) undertook remedial action to prevent recurrence of the conduct, including:

(i) implementing a price check which includes examining the current bid and/or offer price, the last traded price, and the previous day settlement price if none of the aforementioned prices are available;

(ii) restricting AOP trading access for index Options Market Contracts for all clients and diverting all client flow for manual execution.

7. The MDP acknowledges the challenges faced by Trading Participants in applying effective AOP filters for index Option Market Contracts. If effective AOP filters cannot be designed by Trading Participants because of the nature of the financial product or its liquidity, then it would be appropriate for Orders in relation to those kinds of products to be submitted to the trading platform by Designated Trading Representatives.

Other information

The maximum pecuniary penalty that a Court could order CSEAL to pay for contravening subsection 798H(l) of the Act by reason of contravening Rule 5.6.1 is $1,000,000. The maximum pecuniary penalty that may be payable by CSEAL under an infringement notice in relation to the alleged contravention of Rule 5.6.1 is $600,000.

Compliance with the infringement notice

To comply with this infringement notice, CSEAL must pay the penalty within the compliance period. The compliance period starts on the day on which this notice is given to CSEAL and ends 27 days after the day on which it is given. Payment is made by bank cheque to the order of "Australian Securities and Investments Commission".

The effects of compliance with this infringement notice are:

(a) any liability of CSEAL to the Commonwealth for the alleged contravention of subsection 798H(l) of the Act is discharged; and

(b) no civil or criminal proceedings may be brought or continued by the Commonwealth against CSEAL for the conduct specified in the infringement notice as being the conduct that made up the alleged contravention of subsection 798H(l) of the Act; and

(c) no administrative action may be taken by ASIC under section 914A, 915B, 915C or 920A of the Act against CSEAL for the conduct specified in the infringement notice as being the conduct that made up the alleged contravention of subsection 798H(l) of the Act; and

(d) CSEAL is not taken to have admitted guilt or liability in relation to the alleged contravention; and

(e) CSEAL is not taken to have contravened subsection 798H(l) of the Act.

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

CSEAL may apply to ASIC for withdrawal of this notice under regulation 7.2A.l l of the Regulations and for an extension of time to comply under regulation 7.2A.09 of the Regulations.

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

Findley Hipkin
Lawyer, Markets Disciplinary Panel with the authority of a Division of the Australian Securities and Investments Commission

Note: Members of the 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.