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PART 7.2A OF THE CORPORATIONS REGULATIONS 2001
INFRINGEMENT NOTICE

To: Societe Generale Securities Australia Pty Limited
ACN 114 206 307
Level 25
Bligh Street
SYDNEY NSW 2000

Matter: MDP 1213-24

Date given: 30 July 2025

TAKE NOTICE: The Australian Securities and Investments Commission (***ASIC***) gives this infringement notice to Societe Generale Securities Australia Pty Limited ACN 114 206 307 (***SocGen***) under regulation 7.2A.04 of the *Corporations Regulations 2001* (***Regulations***), which is made for the purposes of section 798K of the *Corporations Act 2001* (***Act***).

To comply with this notice, SocGen must pay a penalty to ASIC, on behalf of the Commonwealth, in the sum of **$3,880,100**.

Background

1. SocGen is a Market Participant on the ASX 24 market.

2. As at 30 June 2023, SocGen was the second largest Market Participant on the ASX 24 market, accounting for 11.8% of the total traded volume across the market. SocGen is a wholly owned subsidiary of Society Generale S.A. (***SGSA***) which at the end of December 2023 was ranked by assets as the world's 19th largest bank.

3. SocGen offers its clients 'Direct Market Access' (***DMA***) on its terminals to place orders and trade futures contracts on the ASX 24 market.

4. SGSA had in place arrangements with SocGen to allow clients of SGSA to trade on the ASX 24 futures market using SocGen's account and through SocGen's terminals. During all relevant periods, SocGen also acted as an agent for SGSA through its agency agreement.

Electricity futures trading

5. Electricity futures contracts are listed for trading on the ASX 24 market.

6. The trading hours for the ASX 24 electricity futures market are from 10:00am AEST/AEDT to 4:00pm AEST/AEDT.

7. The commonly used reference price to reflect the fair market value of the underlying electricity futures contract is the Daily Settlement Price (***DSP***). The calculation of the DSP will be impacted by trades executed in a 2-minute Settlement Window (from 15:58:00 to 16:00:00 AEST/AEDT) and orders (bids and asks) present and unmodified for the whole of the 10-second Settlement Window (from 15:59:50 to 16:00:00 AEST/AEDT), and which are at a price more competitive than the last traded price.

8. Energy futures are strongly correlated with the underlying physical energy markets, with the pricing correlation strengthening as the futures contract expiry date is approached.

9. A client of SGSA (***Client One***) placed 16 orders (***Electricity Futures Orders*** or ***Orders 1 to 16***) for various electricity contracts from 15 May 2023 to 13 July 2023 (***first period***) near the close of trading that impacted the DSP. This client used DMA to place the orders through its DMA arrangements with SocGen via SGSA. The Electricity Futures Orders are listed in Annexure A.

10. The MDP considered that SocGen breached the *ASIC Market Integrity Rules (Futures Markets) 2017* (***Rules***) by allowing the Electricity Futures Orders to be placed on the ASX 24 market when it ought to have reasonably suspected that those orders were placed with the intention of creating a false or misleading appearance with respect to the market for, or the price of, the contract.

Wheat futures trading

11. Wheat futures contracts are listed for trading on the ASX 24 market.

12. The ASX 24 market for Eastern Australia Wheat futures operates two sessions:

    (a) a day session, which opens at 11:00am AEST/AEDT and closes at 4:30pm AEST/AEDT; and

    (b) a night session, which opens at 5:00pm AEST/AEDT and closes at 7:00pm AEST/AEDT.

13. The calculation of the DSP for the ASX 24 wheat futures market is likely to be affected by a trade, or an order which is more competitive than the preliminary settlement price, made in close to proximity to the close of the market.

14. Another client of SGSA (***Client Two***) placed 17 orders (***Wheat Futures Orders*** or ***Orders 17 to 33***) for various wheat contracts from 9 October 2023 to 31 October 2023 (***second period***) and from 2 January 2024 to 23 February 2024 (***third period***) near the close of trading that impacted the DSP. This client also used DMA to place the orders through its DMA arrangements with SocGen via SGSA. The Wheat Futures Orders are listed in Annexure B.

15. The MDP considered that SocGen breached the *ASIC Market Integrity Rules (Futures Markets) 2017 (Rules)* by allowing the Wheat Futures Orders to be placed on the ASX 24 market when it ought to have reasonably suspected that those orders were placed with the intention of creating a false or misleading appearance with respect to the market for, or the price of, the contract.

Chronology of Events

16. On 2 June 2022, ASIC called SocGen to remind it of general concerns in relation to volatility of electricity contracts and potential issues with margin calls. On 3 June 2022, SocGen acknowledged the increased volatility and increased initial margin calls but advised no clients had failed to pay margin calls.

17. In June 2022 (and repeated in March 2023) ASIC published its Market Integrity Update highlighting increased volatility in futures markets and urging Market Participants to '*monitor client trading activity that may have the effect of manipulating prices*' and '[a]*s a proactive step, market participants should check that their trade surveillance alerts are fit for purpose and operating as intended.*'

18. On 4 November 2022, ASIC released its Enforcement Priorities for 2023, targeting manipulation in energy and commodities derivatives markets.

19. From 15 May 2023 to 13 July 2023, the 16 Electricity Futures Orders were placed from 1 to 15 seconds before market close. The orders impacted the DSP of the electricity futures contracts in a direction favourable to Client One by between 0.19% and 3.23%. The changes in DSP created a mark-to-market benefit to Client One in the range of $7,614 to $450,432, averaging $126,038.

20. On 7 June 2023, ASIC received a suspicious activity report (***SAR***) from another Market Participant for suspected marking the close for two electricity contracts on 5 June 2023. The trading was undertaken by Client One.

21. On 28 July 2023, ASIC called SocGen and served notices seeking information in relation to a series of orders entered in the last two minutes before market close that appeared to have impacted the DSP. The enquiry included the Electricity Futures Orders.

22. On 11 August 2023, SocGen provided its response to ASIC's notices and advised that it had '*reviewed the Orders of* [Client One] *according to the Trading Principles under Chapter 3 of MIR and more specifically the requirements under MIR 3.1.2 and 3.1.3*' and not identified any issues.

23. On 9 October 2023, the first Wheat Futures Order for 15 wheat futures contracts was placed 30 seconds before market close and impacted the DSP by 0.37% in a direction favourable to Client Two, creating a mark-to-market benefit of $101,250.

24. On 10 October 2023, the next Wheat Futures Order was placed in the last 30 seconds of trading, impacting the DSP in a direction beneficial to Client Two by 0.49% and creating mark-to-market benefit to Client Two of $135,000.

25. On 18 October 2023, ASIC emailed SocGen enquiring about a series of orders by Client Two asking if they had raised any compliance concerns, seeking details of any investigation undertaken by SocGen and asking if there had been any prior compliance engagements with that client.

26. On 25 October 2023, ASIC served notices on SocGen seeking information in relation to

Client Two's suspicious trading.

27. On 31 October 2023, a further Wheat Futures Orders was placed in the last 30 seconds of trading, impacting the DSP in a direction beneficial to Client Two by 0.64% and creating mark-to-market benefits to Client Two of $154,000.

28. On 2 November 2023, SocGen emailed ASIC to confirm that it had tightened its surveillance controls by switching on a pre-existing SMARTS alert ('Entry of High Closing Bid or Low Closing Ask') to identify orders entered in the last minute of trading and establishing the closing price for the day.

29. From 1 November 2023 to 31 December 2023, ASIC observed an abatement in Client Two's marking the close activity.

30. On 8 December 2023, ASIC had a meeting with Client One, with the attendance of SocGen, to discuss ASIC's concerns around suspicious order activity by Client One. At the meeting SocGen advised that it had imposed a ban on Client One's trading in the last 2 minutes prior to market close. This was confirmed in an email on 14 December 2023.

31. On 19 December 2023, ASIC wrote to SocGen expressing concern as to *'whether SG has adequate surveillance alerts and processes to enable SG to detect and address potentially manipulative trading behaviour entered into the market through its terminals*' and its expectation that SocGen review the adequacy of its supervisory processes, alerts and steps to address potentially manipulative behaviour and make its own assessment of the legitimacy of Client One's trading.

32. Between 2 January 2024 and 23 February 2024, Client Two entered 14 further Wheat Futures Orders all from 2 to 16 seconds before market close. Each order impacted the DSP of the wheat futures contract in a direction favourable to Client Two of between 0.41% and 2.23%. Client Two's mark-to-market position during this third period benefitted in the range of $37,680 to $744,975 with an average benefit of $262,034.

33. On 1 March 2024, in response to ASIC's 19 December 2023 correspondence, SocGen wrote to ASIC advising that: '*Whether viewed individually or as part of the whole in the Relevant Period, SG did not observe a conduct that would have caused a person to reasonably suspect that the Relevant* [Client One] *Orders were intended to be manipulative in the market*.'

Alleged Contraventions – Rule 3.1.2(1)(b) (false and misleading appearance)

34. Rule 3.1.2(1)(b) of the Rules provides:

(1) A Market Participant must not offer to purchase or sell a Contract or deal in any Contract:

(b) on account of any other person where:

(i) the Market Participant intends to create;
(ii) the Market Participant is aware that the person intends to create; or
(iii) taking into account the circumstances of the Order, a Market Participant

ought reasonably suspect that the person has placed the Order with the intention of creating,

a false or misleading appearance of active trading in any Contract or with respect to the market for, or the price of, any Contract.

35. Rule 3.1.2(3) of the Rules provides:

For the purposes of subparagraph (1)(b)(iii), in considering the circumstances of the Order, the Market Participant must have regard to the following matters:

(a) whether the Order or execution of the Order would be inconsistent with the history of or recent trading in that Contract;
(b) whether the Order or execution of the Order would alter the market for, or the price of, the Contract;
(c) the time the Order is entered or any instructions concerning the time of entry of the Order;
(d) whether the person on whose behalf the Order is placed, or another person who the Market Participant knows to be a related party of that person, may have an interest in creating a false or misleading appearance of active trading in any Contract or with respect to the market for, or the price of, any Contract;
(e) whether the Order is accompanied by settlement, delivery or security arrangements which are unusual;
(f) where the Order appears to be part of a series of Orders, whether when put together with other Orders which appear to make up the series, the Order or the series is unusual having regard to the matters referred to in this subrule;
(g) whether there appears to be a legitimate commercial reason for that person placing the Order, unrelated to an intention to create a false or misleading appearance of active trading in or with respect to the market for, or price of, any Contract;
(h) whether the proposed transaction, bid or offer which is proposed will involve no change of beneficial ownership;
(i) the frequency with which Orders are placed by a person;
(j) the volume of Contracts the subject of each Order placed by a person; and
(k) the extent to which a person amends or cancels an instruction to purchase or sell a Contract relative to the number of transactions executed for that person.

36. ASIC Regulatory Guide 266 includes indicators that may combine to give rise to reasonable grounds to suspect that an order or transaction may affect market integrity. While this guidance is in the context of when a Market Participant is required to notify ASIC of reportable matters under Rule 3.6 of the Rules, similar principles apply as to circumstances when a participant ought reasonably suspect that the person has placed an order with the intention of creating a false or misleading appearance. The indicators are in Table 6 at 266.146 are as follows:

Primary indicator	**Other indicators**
An order is placed: • near the close of the trading day; or • on the last day of the month, quarter,	The order forms part of a trading pattern where the client or trader regularly chooses to buy high or sell low at the close. This may be a reportable matter where the order would, if executed, represent a significant increase or decrease from

half year or financial year	the previous trade price (price support', 'marking the close' or 'window dressing') Other indicators include: • the client or trader chooses not to buy or sell at other times of the trading day when better prices are available; In addition, the client or trader may already hold existing positions in the futures contracts or related derivatives, and have an interest in maintaining the price of the futures at a certain level

37. The MDP considered that it had reasonable grounds to believe that SocGen breached Rule 3.1.2(1)(b)(iii) by permitting the Electricity Futures Orders to be placed on the ASX 24 market during the first period and by permitting the Wheat Futures Orders to be placed on the ASX 24 market during the second and third periods. This outcome was arrived at after taking into account all the circumstances. The MDP considered that SocGen ought to have reasonably suspected that the orders were placed with the intention of creating a false or misleading appearance with respect to the market for, or the price of, the relevant ASX 24 electricity futures contracts and the relevant ASX 24 wheat futures contracts by impacting the DSP in those respective contracts.

38. SocGen has agreed that it breached Rule 3.1.2(1)(b)(iii) by permitting the Electricity Futures Orders and the Wheat Futures Orders to be placed on the ASX 24 market.

39. The MDP considered that SocGen ought to have reasonably suspected that the Electricity Futures Orders and the Wheat Futures orders were placed with the intention of creating a false or misleading appearance, given the following circumstances.

Timing of orders

40. All of the Electricity Futures Orders and Wheat Futures Orders were placed within the last minute of the close.

41. A number of the late orders were matched with existing orders that had been available in the market for considerable time, suggesting they were placed to influence the DSP rather than a genuine desire to trade.

42. In respect of the Wheat Futures Orders in the third period, Client Two was the only participant entering orders in WMH4 (both outright and spread) during the final minute of trading.

Impact on the market

43. All the Electricity Futures Orders and Wheat Futures Orders significantly impacted the DSP. The impact was between 0.19% and 3.23% for the electricity futures DSP and 0.37% and 2.23% for the wheat futures DSP.

44. Two of the Electricity Futures Orders were the subject of a SAR lodged by a Market Participant under Rule 3.6.1 for potential market manipulation.

Pattern of trading

45. When considered as a series of orders, the Electricity Futures Orders and the Wheat Futures Orders demonstrated a pattern of orders that consistently moved the DSP in those respective markets in a direction to improve SocGen's client's mark-to-market position.

46. Electricity Futures Orders 1 to 6 were Client One's only orders in that contract for that day. Client One was not active in the market in those contracts prior to entering these orders.

47. Wheat Futures Orders 17 to 24 and Orders 30 to 33 were Client Two's only orders in that contract for that day. Client Two was not active in the market prior to entering these orders.

48. Most of the Electricity Futures Orders and Wheat Futures Orders sent to the market that traded did so with resting orders in the market. Client One waited until the final seconds to enter the opposing side and trade with the pre-existing order.

Client's interest in impacting the market

49. Each of the Electricity Futures Orders sent to the market and those executed impacted the DSP in a direction which was favourable to the Client One's existing position and interest, resulting in an increased mark-to-market profit or reduced mark-to-market loss for the client and likely lowered its margin requirements.

50. Each of the Wheat Futures Orders sent to the market and those executed impacted the DSP in a direction which was favourable to the Client Two's existing position and interest, resulting in an increased mark-to-market profit or reduced mark-to-market loss for the client and likely lowered its margin requirement.

Lack of commerciality

51. A number of the orders appeared to lack commerciality, being asks where there had been bids placed earlier at higher prices, or conversely, bids where there had been asks placed earlier at lower prices.

Regulatory enquiries into clients' trading

52. On 28 July 2023, ASIC served a notice on SocGen seeking information in relation to a series of orders, including the Electricity Futures Orders. This put SocGen on notice, prior to the Wheat Futures Orders, about potential marking the close behaviour generally and the need to review its surveillance arrangements.

53. On 18 October 2023, ASIC raised specific concerns with SocGen regarding orders entered by Client Two. This was after the first two Wheat Futures Orders but before the remaining Wheat Futures Orders.

54. On 19 December 2023, ASIC wrote to SocGen flagging its concerns regarding the inadequacy of its surveillance alerts and processes and its ability to detect and address

manipulative behaviour. This was prior to the Wheat Futures Orders in the third period.

Volatility in futures market

55. In June 2022 and again in March 2023, ASIC put Market Participants on notice (via Market Integrity Updates) about increased volatility in futures markets and urged gatekeepers, such as SocGen, to closely monitor client trading activity and check the adequacy of their trade surveillance alerts and processes. ASIC also called energy Trading Participants, including SocGen on 2 June 2022, in relation to the issue of volatility on electricity markets. On 4 November 2022 ASIC published its Enforcement Priorities, also highlighting ASIC's concerns around an increase in poor market conduct in energy and commodities futures markets.

The determination of penalty

56. In determining the appropriate penalty for each alleged contravention, the MDP considered the four key factors set out in *ASIC Regulatory Guide 216: Markets Disciplinary Panel* (***RG216***), namely:

(a) the character of the conduct;

(b) the consequences of the conduct;

(c) the participant's compliance culture; and

(d) remedial steps taken by the participant.

Character of the conduct

57. In considering the character of the conduct, the MDP considered the conduct over the three periods:

a. First period: 15 May 2023 to 13 July 2023 when Client One placed the 16 Electricity Futures Orders;

b. Second period: 9 October 2023 to 31 October 2023 when Client Two placed the first three Wheat Futures Orders; and

c. Third Period: 2 January 2024 to 23 February 2024 when Client Two placed the remaining 14 Wheat Futures Orders.

First Period

58. The MDP considered that SocGen's conduct during the first period was careless.

59. There were 16 Electricity Futures Orders placed by Client One over two months. They were placed in an illiquid and potentially high risk market. Further, SocGen had previously identified Client One as a '*high-risk*' client that was to be subject to enhanced due diligence with periodic reviews on an annual basis, or more frequently, upon occurrence of a trigger event.

60. ASIC had highlighted to Market Participants in its Market Integrity Updates increased volatility in markets and urged Market Participants to monitor client trading activity that may have the effect of manipulating prices. SocGen was also put on notice by ASIC of the heightened need to monitor the electricity futures market given the volatile conditions.

61. SocGen uses the NASDAQ SMARTS platform to generate alerts aimed at identifying certain types of market misconduct. SocGen received five alerts in relation to the Electricity Futures Orders. These were analysed and closed at initial review and not escalated. The MDP were concerned that SocGen's staff who reviewed these orders did not have sufficient understanding of the ASX 24 electricity futures market and the methods of calculating the DSP to identify the suspicious nature of the orders and take appropriate action.

62. The MDP were also concerned that the 'Entry of High Closing Bid or Low Closing Ask' alert was not activated at the time of the Electricity Futures Orders given the volatility and risks in the market at the time.

63. The MDP considered that Markets Participants must be aware of, and responsible for, orders placed including orders placed using DMA. Its monitoring of client trading should incorporate appropriate preventative and detective tools and activities, including people with the right expertise as well as surveillance software to ensure it meets its gatekeeper obligations.

64. Having staff with the right and up-to-date expertise – both knowledge and experience - is particularly important with specialised, complex and potentially volatile markets like the electricity futures market.

65. The MDP also considered that while DMA was important to the market, a Market Participant offering DMA should ensure that clients that use DMA remain competent and aware of their obligations, for example by offering ongoing education or periodically re-assessing the competence of the clients.

Second Period

66. The MDP considered that SocGen's conduct during the second period was also careless.

67. There were three Wheat Futures Orders placed by Client Two in a period of three weeks. Like the electricity futures market, the wheat futures market was an illiquid market.

68. After the first two Wheat Futures Orders, ASIC emailed SocGen enquiring about a series of orders by Client Two asking if they had raised any compliance concerns, seeking details of any investigation undertaken by SocGen and asking if there had been any prior compliance engagements with that client. ASIC subsequently served notices on SocGen seeking information in relation to Client Two's suspicious trading.

69. No information was provided to the MDP regarding any escalation within SocGen to involve its trading operations or risk management functions. The MDP expects that when ASIC contacts a Market Participant in respect of their trading, even if it is a notice seeking

documents, it should trigger the Market Participant to make detailed analysis of the trading, the relevant client and its conduct. This is particularly important when the Market Participant has given the client direct access to the market via its DMA terminals.

Third Period

70. During the third period, there were 14 Wheat Futures Orders placed by Client Two over eight weeks. The MDP considered these orders were highly suspicious and appeared to be entered to improve Client Two's position.

71. The MDP considered SocGen's conduct during the third period was reckless.

72. SocGen had received ASIC's queries and a notice regarding Client Two's trading during the second period.

73. Further, on 8 December 2023, ASIC had a meeting with Client One, with the attendance of SocGen, to discuss ASIC's concerns around suspicious order activity by Client One. At the meeting, SocGen advised that it had imposed a ban on Client One's trading in the last 2 minutes prior to market close.

74. On 19 December 2023, ASIC wrote to SocGen expressing concern as to *'whether SG has adequate surveillance alerts and processes to enable SG to detect and address potentially manipulative trading behaviour entered into the market through its terminals'* and its expectation that SocGen review the adequacy of its supervisory processes, alerts and steps to address potentially manipulative behaviour and make its own assessment of the legitimacy of Client One's trading.

75. Despite these concerns from ASIC and earlier queries specifically about Client Two, Client Two was allowed to place the 14 suspicious Wheat Futures Orders in the third period.

76. SocGen submitted that it conducted further targeted training of its surveillance staff with respect to marking the close behaviour and introduced escalation protocols in December 2023. These actions did not work to prevent the orders or escalation of suspicious trading activity in the third period which occurred over a period of 45 days.

77. These orders generated seven alerts, all of which were analysed and closed without further investigation and not escalated. The MDP were concerned that the suspicious behaviour was not identified, even when alerts were triggered. The lack of appropriate review or escalation of the alerts meant that steps were not then undertaken to further query or stop the conduct. The MDP noted that the additional training provided to relevant surveillance staff had clearly been ineffective in helping to detect suspicious behaviour and escalate concerns appropriately.

78. The MDP also considered that in the circumstances, any response by SocGen to ASIC's concerns should have involved significant oversight by SocGen's management – including trading operations and risk management as appropriate – to monitor the review of, and decision-making around, surveillance alerts and ensure the response was effective.

79. The MDP considered that SocGen failed to demonstrate it adequately responded to ASIC's concerns which were shown to be valid. Had SocGen taken appropriate and timely action, it is unlikely that the Wheat Futures Orders in the third period would have been allowed.

Consequences of the conduct

80. Client One's margin position benefitted from the change in the electricity futures DSP as a result of the Electricity Futures Orders in the range of $7,164 to $450,432. Client Two's margin position benefitted from the change in the wheat futures DSP as a result of the Wheat Futures Orders in the range of $37,680 to $744,975.

81. Conversely, those on the wrong side of the price movement would have been exposed to larger margin calls or reduced notional profits. Losses incurred by other participants in the market may also have been much larger than the benefits to Clients One and Two.

82. Manipulation in electricity and wheat futures markets may also impact the costs for everyday Australian business and consumers.

83. The MDP noted that this type of activity is a threat to the integrity of derivatives markets, including undermining the confidence in the DSP and the market more generally. The MDP noted that another Market Participant had observed suspicious behaviour which prompted an SAR to ASIC.

84. Additionally, manipulative orders can have broader implications for the reputation of the contract and may result in entities exiting the ASX 24 futures market altogether in favour of trading electricity and wheat derivatives over the counter, where there is no standardisation, less liquidity, less transparency and where there is a higher risk of counterparty default.

85. The MDP considered the consequences of SocGen's conduct was, on balance, an aggravating factor.

Compliance culture

86. The MDP noted that there have been no other MDP infringement notices issued to SocGen. This is a mitigating factor although this becomes less of mitigating factor by the time of the third period.

87. The compliance culture of an organisation is in part demonstrated by its actions in response to compliance failures. The MDP were concerned that SocGen appeared to rely too heavily on its SMARTS alerts and the expertise of its first-level surveillance analysts, did not adequately respond to or escalate matters even when those alerts were triggered and did not adequately respond to ASIC's enquiries and concerns.

88. The MDP were also alarmed that the circumstances raised a concern regarding the overall effectiveness of SocGen's compliance and surveillance framework and functions, including those components based offshore, and whether the specific training, skills and management oversight procedures were sufficiently documented and implemented to adequately monitor the ASX 24 electricity and wheat futures market.

89. The MDP noted that when surveillance and compliance staff are based offshore, Market Participants need to manage these arrangements to ensure those overseas-based staff adequately understand the products traded on, and rules of, the Australian markets and the risks involved. The MDP also noted that when immediate reporting lines are to offshore based staff, those staff should be available to immediately respond to concerns during Australian time zones.

90. While SocGen had a compliance framework in place, the MDP were concerned that it was not effective to prevent the Electricity Futures Orders and the Wheat Futures Orders and that the circumstances of these orders, including the ineffective remedial actions, may point to a systemic failure across this compliance framework. In particular, the MDP were concerned about the degree of management oversight of the surveillance functions, particularly after ASIC had raised concerns about its surveillance alerts and processes including checking that adequate controls were in place and operating effectively.

91. SocGen agreed with ASIC to an Amended Statement of Reasons and agreed to the breaches of the Rules. The MDP acknowledge the benefits of ASIC and the Market Participant agreeing on the facts and contraventions. Further, SocGen also agreed that '*SocGen's response to ASIC's concerns and subsequent remediation actions fell short of the standard expected of a market participant of their size, scale, sophistication and market share*.' This admission reflects positively on SocGen and its recognition of ASIC's expectations.

92. Overall, the MDP considered SocGen's compliance culture was an aggravating factor in relation to the third period.

Remedial steps

93. SocGen took some remedial steps in relation to the conduct. However as noted in RG216 at 216.98, '*Subsequent steps taken by a participant to address and remedy conduct and its consequences once they become aware of it will only be a mitigating factor if such steps are taken promptly and effectively address the issue.*' In this instance, the steps taken by SocGen were ineffective and did not address the issue.

94. In relation to Client One, on 10 and 19 October 2023 SocGen requested Client One to cease trading in the last 2 minutes prior to market close. This was a positive response although the MDP note that this was only after ASIC made enquiries about late orders including the Electricity Futures Orders and over two months after those enquiries. Further, the MDP were concerned that no such steps were taken in relation to Client Two at the time. There was an abatement in Client Two's suspicious conduct in November and December 2023 after ASIC alerted SocGen to Client Two's orders. However Client Two was not restricted from engaging in suspicious conduct from January 2024.

95. SocGen also advised ASIC on 2 November 2023 that it had turned on a previously unused alert, named Entry of High Closing Bid or Low Closing Ask which is used to identify orders entered in the last minute of trading that increase the best bid to a price higher than the last traded price and establish the closing price for the day. The MDP were concerned that this alert was not already active, particularly given the concerns previously raised by ASIC about volatility and manipulative behaviour in the market.

96. Further, this new alert was triggered in relation to seven Wheat Futures Orders in the third period. The orders were analysed and alerts closed without further investigation. The MDP noted that SMARTS is a tool that is only as good as its users' skills and knowledge. Automated alerts are ineffective unless they are reviewed by staff with sufficient expertise to identify potentially suspicious conduct for follow-up and/or escalation. In this case, the staff did not have the necessary expertise and it appeared that there was no management oversight to check on alert events or assessments in relation to this client.

97. The MDP also noted that reliance on automated alerts is not always sufficient. Where the Market Participant or ASIC has flagged concerns about a client's behaviour, there may be situations where manual oversight of client conduct is needed – such as pro-active monitoring of activity around the close by senior trading staff, particularly when clients are using direct access to the market via DMA.

98. The MDP expects that Market Participants should be engaged in active management oversight of the surveillance functions and, as a minimum, be conducting periodic spot checks by management or parties independent of the surveillance staff of alerts and surveillance staff responses to them, particularly where there are known concerns from regulators regarding particular client activity.

99. In addition, continuous education and where appropriate, training of DMA clients should be considered by Market Participants to ensure ongoing awareness and understanding of market rules and risks.

100. Overall, the MDP considered the lack of sufficient, timely or effective remediation was an aggravating factor.

Penalty

101. The maximum penalty for a single contravention that occurs wholly on or after 13 March 2019 is 15,000 penalty units. The low range is up to 5,000 penalty units, medium range is from 5000 to 10,000 penalty units and the high range is from 10,000 to 15,000 penalty units. The amount of one penalty unit for conduct between 1 January 2023 and 30 June 2023 is $275 and the amount of one penalty unit for conduct between 1 July 2023 and 6 November 2024 is $313.

102. In considering the penalty, the MDP were mindful of the size, scale and market share of SocGen and considered that a penalty, whilst proportionate, should also be sufficient to provide a general deterrent to Market Participants against future misconduct of this nature.

103. The MDP reviewed recent and relevant prior MDP decisions relating to the ASX 24 market and took into account differences of fact in relation to penalty determination in this matter.

104. The MDP considered that the conduct should be treated as three single courses of conduct for each of the first, second and third periods. Having regard to the circumstances of the alleged contraventions during each period, the MDP considered:

(a) the alleged contraventions in the first period to be in the low range and decided to impose a penalty of $687,500 (2,500 penalty units at $275 per unit). The entire amount of the penalty was applied to the first alleged contravention on 15 May 2023, with no penalty being specified for each subsequent contravention during the first period;

(b) the alleged contraventions in the second period to be in the low range and decided to impose a penalty of $845,100 (2,700 penalty units at $313 per unit). The entire amount of the penalty was applied to the first alleged contravention in the second period on 9 October 2023, with no penalty being specified for each subsequent contravention during the second period; and

(c) the alleged contraventions in the third period to be in the middle range and decided to impose a penalty of $2,347,500 (7,500 penalty units at $313 per unit). The entire amount of the penalty was applied to the first alleged contravention in the third period on 2 January 2024, with no penalty being specified for each subsequent contravention during the third period.

105. Accordingly, the total penalty for all the alleged contraventions is **$3,880,100**.

Other information

The maximum pecuniary penalty payable under an infringement notice in relation to an alleged contravention of subsection 798H(1) of the Act, by reason of contravening Rule 3.1.2 of the Rules is $4,125,000 for each contravention occurring between 1 January 2023 and 30 June 2023 and $4,695,000 for each contravention occurring between 1 July 2023 and 6 November 2024.

Note: The maximum pecuniary penalty is 15,000 penalty units for a body corporate: see subsection 798K(2) of the Act. The amount of a penalty unit was $275 between 1 January 2023 and 30 June 2023 and $313 between 1 July 2023 and 6 November 2024: see subsection 4AA(1) of the Crimes Act 1914.

The maximum pecuniary penalty that a Court could order SocGen to pay for contravening subsection 798H(1) of the Act (a civil penalty provision), by reason of contravening Rule 3.1.2 of the Rules, is determined by section 1317G of the Act.

Note: Under subsections 1317G(2) and (4), the maximum pecuniary penalty per contravention is the greatest of:

(a) 50,000 penalty units; and

(b) if the Court can determine the benefit derived and detriment avoided because of the contravention—that amount multiplied by 3; and

(c) either:

(i) 10% of the annual turnover of the body corporate for the 12-month period ending at the end of the month in which the body corporate contravened, or began to contravene, the civil penalty provision; or

(ii) if the amount worked out under subparagraph (i) is greater than an amount equal to 2.5 million penalty units—2.5 million penalty units.

To comply with this infringement notice, SocGen must pay the penalty within the compliance period. The compliance period starts on the day on which this notice is given to SocGen and ends 27 days after the day on which it is given. This penalty can be paid using the method detailed in the email by which this notice is given.

The effects of compliance with this infringement notice are:

(a) any liability of SocGen to the Commonwealth for the alleged contraventions 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 SocGen for the conduct specified in the infringement notice as being the conduct that made up the alleged contraventions of subsection 798H(1) of the Act; and

(c) no administrative action may be taken by ASIC under sections 914A, 915B, 915C or 920A of the Act against SocGen for the conduct specified in the infringement notice as being the conduct that made up the alleged contraventions of subsection 798H(1) of the Act; and

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

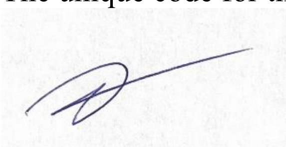
(e) SocGen is not taken to have contravened subsection 798H(1) of the Act.

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

SocGen may apply to ASIC for withdrawal of this infringement notice under regulation 7.2A.11 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.

The unique code for this notice is MDP 1213/24.



Andrew Stecher
Counsel to the 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.

MDP 1213/24 Infringement Notice

Annexure A

Order	Date	Time	Contract	Side	QTY	MTC Alert?[1]	Time from close	Price significance	Order or Trade[2]	DSP Impact[3]	Aggregate benefit for date
1	15/05/2023	15:59:45.294	BVZ6	B	1	No	15 secs	$1 higher than the prevailing best bid (from previous day) $1 higher than previous day's DSP	Order	▲ $1 or ▲ 1.72%	$13,248
2	16/05/2023	15:59:47.391	BVZ6	B	1	No	13 secs	$1 higher than the prevailing best bid order (from previous day) $1 higher than previous day's DSP	Order	▲ $1 or ▲ 1.69%	$13,248
3	18/05/2023	15:59:48.272	BVZ6	B	1	No	12 secs	$1.24 higher than last trade	Order	▲ $1.24 or ▲ 2.04%	$82,765
4	18/05/2023	15:59:48.272	BVU6	B	1	No	12 secs	$0.85 higher than last traded price (strip trade)	Order	▲ $0.85 or ▲0.93%	
5	18/05/2023	15:59:48.271	BQZ6	B	1	No	12 secs	$1.39 higher than the last traded price (strip trade)	Order	▲ $1.39 or ▲1.66%	
6	18/05/2023	15:59:48.272	BVM6	B	1	No	12 secs	$0.82 higher than the last than last traded price (strip trade)	Order	▲ $0.82 or ▲0.91%	
7	05/06/2023	15:59:57.251	GNH4	S	1	Yes - Market dominance at close (account) (sell)	3 secs	$1.75 lower than prevailing best offer in the order book	Trade	▼$1.25 or ▼3.01%	$329,675
8	05/06/2023	15:59:57.251	BNH4	B	1	No	3 secs	$1.40 higher than prevailing best bid in the order book and 0.70 higher than the last trade	Trade	▲ $0.70 or ▲0.47%	
9	6/06/2023	15:59:56.658	GNH4	S	1	Yes - "Significant volume in last 2 minutes of trading alert".	3 secs	$3 lower than prevailing best ask in the order book $0.5 lower than last traded price	Trade	▼$0.50 or ▼1.2%	$164,280
10	6/06/2023	15:59:59.221	BQH4	B	1	Yes - "Significant volume in last 2 minutes of trading alert".	1 sec	$2 higher than prevailing best bid in the order book $1.75 higher than last trade	Trade	▲$ 0.29 or ▲ 0.19%	
11	13/06/2023	15:59:58:337	BQZ3	S	1	No	2 Secs	$1.50 lower than the prevailing best ask in the order book	Trade	▼ $ 0.50 or ▼ 0.42%	$79,488

[1] This field identifies the alert, if any that was triggered in SocGen's surveillance systems.
[2] This field identifies whether the order factored into the calculation of the DSP is either an order or trade.
[3] This field identifies the impact of the order to the DSP on that day. It has been calculated by removing the order from the order book and then determining what the DSP would have been without that order and then determine the differential against the actual DSP.

Order	Date	Time	Contract	Side	QTY	MTC Alert?[1]	Time from close	Price significance	Order or Trade[2]	DSP Impact[3]	Aggregate benefit for date
								$0.50 lower than last traded price			
12	20/06/2023	15:59:53.957	BVM4	S	1	No	6 secs	$1.95 lower than the prevailing best ask in the order book $1.83 lower than last traded price	Trade	▼ $ 1.83 or ▼ 1.76%	
13	20/06/2023	15:59:48.680	BQZ5	S	1	No	11 secs	$2 lower than the prevailing best ask in the order book. $1.02 lower than the last traded price	Trade	▼ $ 1.02 or ▼ 1.23%	$386,952
14	30/06/2023	15:59:51.508	GNU3	S	1	No	8 secs	$1 lower than the prevailing best ask in the order book $0.50 lower than last traded price	Trade	▼ $ 0.25 or ▼ 1.02%	$47,472
15	13/07/2023	15:59:58.504	BNU3	S	1	Yes – pattern of establishing day low/close (account)	1 sec	$2.5 lower than the prevailing best ask in the order book $2.75 lower than last traded price	Trade	▼ $2.45 or ▼ 2.39%	$899,429
16	13/07/2023	15:59:58:504	BQU3	S	1	Yes – Market dominance at open/close alert	1 sec	$4 lower than the prevailing best ask in the order book. $3 lower than last traded price	Trade	▼ $4 or ▼ 3.23%	

MDP 1213/24 Infringement Notice

Annexure B

Order	Date	Time	Contract	Side	QTY	MTC Alert?[1]	Time from close	Price significance	Order or Trade[2]	DSP Impact[3]	Aggregate benefit for date
17	09/10/2023	16:29:30.496	WMF4	B	15	No	30 secs	$3 higher than the next best bid in the order book	Order	▲ $1.50 or ▲ 0.37%	$101,250
18	10/10/2023	16:29:31.602	WMF4	B	10	No	28 secs	$2 higher than the last trade price $3 higher than the next best bid in the order book	Order	▲ $2 or ▲ 0.49%	$135,000
19	31/10/2023	16:29:33.554	WMH4	B	10	No	26 secs	$4.50 higher than the next best bid in the order book $2.50 higher than the last traded price	Order	▲ $2.50 or ▲ 0.64%	$154,000
20	02/01/2024	16:29:48.749	WMH4	B	15	Yes – Entry of high closing bid	11 secs	$2 higher than the last trade price $11 higher than the next best bid in the order book	Order	▲ $2 or ▲ 0.53%	$180,600
21	03/01/2024	16:29:49.588	WMH4	B	25	No	10 secs	$16.50 higher than the next best bid in the order book No trades on this day	Order	▲ $8.25 or ▲2.23%	$744,975
22	15/01/2024	16:29:55.186	WMH4	B	25	No	5 secs	$5 higher than next best bid in the order book	Order	▲ $2.50 or ▲ 0.67%	$226,500
23	16/01/2024	16:29:54.662	WMH4	B	15	No	5 secs	$5 higher than next best bid in the order book	Order	▲ $2.50 or ▲ 0.68%	$226,500
24	17/01/2024	16:29:54.483	WMH4	B	25	Yes - Entry of high closing bid	6 secs	$4.5 higher than the next best bid in the order book and $4.50 higher than the last traded price[4]	Order	▲ $4.60 or ▲ 1.27%	$416,760
25	18/01/2024	16:29:52.592	WMH4	B	10	Yes - Entry of high closing bid, pattern of entry of high/low	7 secs	$1.50 higher than the last trade price at 16:21:58.836 $20.5 higher than the next best bid in the order book	Order	▲ $1.50 or ▲ 0.41%	$136,650
26	19/01/2024	16:29:53.080	WMH4	B	20	Yes - Entry of high closing bid and	7 secs	$9.50 higher than the next best bid in the order book	Order	▲ $4.80 or ▲ 1.31%	$437,280

[1] This field identifies the alert, if any that was triggered in SocGen's surveillance systems.
[2] This field identifies whether the order factored into the calculation of the DSP is either an order or trade.
[3] This field identifies the impact of the order to the DSP on that day. It has been calculated by removing the order from the order book and then determining what the DSP would have been without that order and then determine the differential against the actual DSP.
[4] There was another trade at 15:56 for 250 lots of WMH4 at price of $370. This was a block trade and as such it did not impact DSP calculations.

Order	Date	Time	Contract	Side	QTY	MTC Alert?[1]	Time from close	Price significance	Order or Trade[2]	DSP Impact[3]	Aggregate benefit for date
						Entry of high closing bid or low closing ask and Pattern of multiple alert types					
27	29/01/2024	16:29:56.748	WMH4	B	15	No	3 secs	$4 higher than the next best bid in the order book	Order	▲ $2 or ▲ 0.54%	$182,200
28	30/01/2024	16:29:52.763	WMH4	B	10	Yes - Entry of high closing bid	7 secs	$3 higher than the last trade price at 14:19:12.340 $7 higher than the next best bid in the order book	Order	▲ $3 or ▲ 0.82%	$261,300
29	1/02/2024	16:29:44.299	WMH4	B	15	No	16 secs	$15 dollar higher than next best bid	Order	▲ $7.50 or ▲ 2.07%	$566,250
30	02/02/2024	16:29:43.821	WMH4	B	20	Yes - Entry of high closing bid	16 secs	$7 higher than the next best bid in the order book	Order	▲ $3.50 or ▲ 0.95%	$264,250
31	14/02/2024	16:29:56.577	WMH4	B	20	Yes - Entry of high closing bid	3 secs	$2.50 higher than the last trade price at 14:39:15.390 $11.50 higher than the next best bid in the order book	Order	▲ $2.50 or ▲ 0.71%	$168,750
32	16/02/2024	16:29:58.314	WMH4	B	15	No	2 secs	$1.50 higher than the last trade price at 14:32.33.528 (trade resulting from spread order)	Order	▲ $4.25 or ▲ 1.26%	$214,625
33	23/02/2024	16:29:49.727	WMH4	B	20	No	10 secs	$4 higher than the last trade price at 16:18.42.530 $4 higher than the next best bid in the order book $3 higher than the price of the sell order [redacted] entered during the night trading session at 17:44:30.813	Order	▲ $4 or ▲ 1.21%	$37,680