

## SFE NOTICE NO. 139/06

Date of Issue: 27 November 2006  
Effective Date: 27 November 2006

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## Disciplinary Action Imposed by the Business Conduct Committee upon a Participant of the Exchange

Pursuant to Operating Rule 5.12, Sydney Futures Exchange Limited (the Exchange) advises that its Business Conduct Committee (the Committee) has determined the following:

A Participant of the Exchange has been fined \$20,000 in total (exclusive of GST) for a failure to comply with the following:

- (i) Operating Rule 2.2.10(b); and  
[Notification of Breaches]
- (ii) Operating Rule 2.2.26(d).  
[Permitted Withdrawals from a Clients' Segregated Account]

The Clients' Segregated Account breach stemmed from a back office processing error, which resulted in the incorrect transfer of \$24,877,655 from the Participant's Clients' Segregated Account (CSA) to the Participant's House account which in turn led to a deficit in clients' funds on 30 June 2006. The incorrect transfer was identified and rectified by the Participant's Operations staff on 3 July 2006 but was not self reported to the Participant's Compliance Department or to the Exchange. The matter was subsequently identified as a result of an investigation by the Exchange's Compliance & Surveillance unit into the deficit in the Statement of Client Funds as reported in the Participant's June 2006 Financial Return.

The Committee was concerned at the apparent lack of adequate management oversight and review in the Participant's Operations Department and the apparent lack of compliance training and Rule awareness which led to a failure of the Participant's Operations staff to recognise that they had breached a provision of the Operating Rules. In particular, the Committee was concerned to note that the Participant's Operations staff appeared to believe that, as the funds had been repatriated to the Clients' Segregated Account on 3 July, no apparent breach had occurred. The Committee further observed that the matter was not escalated appropriately to either management or Compliance and accordingly was not self reported to the Exchange.

The Committee also noted the relatively new staff employed in the Participant's Operations Department and that the lack of supervisory review, combined with the way in which the Participant's on-line accounts had been named may have exacerbated the matter. The Committee noted that whilst the Participant's bank accounts had been named correctly, the on-line bank account designations did not make it easy to differentiate between a Client and a House account. The Committee recommended that the Participant's on-line Clients' Segregated Account be more clearly identified and differentiated from its other accounts.

In making its determination as to penalty, the Committee took into account the following key factors:

- the Participant's generally good compliance history, including a positive and aligned compliance culture and a history of timely self reporting of breaches to the Exchange;
- that the Participant had since implemented remedial action to rectify the matter including initiating appropriate control enhancements, compulsory compliance training for relevant staff and

implementation of formal procedures for escalation of breaches to the Participant's Compliance Department;

- the fact that the initial error was inadvertent, however was compounded due to an inadequate control framework, resulting in no self reporting of the event;
- that a Clients' Segregated Account should be treated at all times with paramount care and diligence noting that any inappropriate activity (whether inadvertent or deliberate) relating to such an account may have serious implications in terms of client protection obligations; and
- that notification to the market of the matter would help to reinforce the importance placed by the Exchange on timely self reporting.



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