

Article Information

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UBS Securities pays \$120,000 infringement notice from Market Disciplinary Panel

UBS Securities Australia Limited (UBS) has paid a \$120,000 infringement notice given by the Markets Disciplinary Panel (MDP) after the MDP had reasonable grounds to believe UBS contravened Rule 3.3.1(b) of the ASIC Market Integrity Rules (ASX Market) 2010.[1]

UBS Securities Australia Limited (**UBS**) has paid a \$120,000 infringement notice given by the Markets Disciplinary Panel (**MDP**) after the MDP had reasonable grounds to believe UBS contravened Rule 3.3.1(b) of the ASIC Market Integrity Rules (ASX Market) 2010.[1]

Rule 3.3.1(b) states that a market participant must not enter into a market transaction for a client, except in accordance with the instructions of the client or an authorised representative, pursuant to exercising discretion in respect of that clients' Managed Discretionary Account, or as otherwise permitted.

The potential contravention relates to a number of transactions relating to six on-market buy-backs conducted by UBS on the ASX market in 2017, which the MDP believes were not in the ordinary course or trading and were not in accordance with the clients' instructions.[2]

UBS conducted 190,626 trades over 7 months in relation to six buy-backs over a seven month period.[3] Of these trades, 328 trades and 18 million securities were entered into in circumstances where UBS purchased securities other than by the matching orders on an order book, and reported these trades to the ASX as 'Trades with Price Improvement'.[4]

The MDP considers UBS's conduct to be careless, its internal training insufficient and internal controls ineffective.[5] Traders were unaware that the executed trades were not in the ordinary course of trading.[6] The MDP accepts that UBS did not intend to contravene the market integrity rules, and the conduct did not cause financial loss to clients or third parties, or benefit UBS beyond the brokerage that would otherwise have been received.[7]

The MDP considers the guidance provided in ASIC Regulatory Guide 223: Guidance on ASIC market integrity rules for competition in exchange markets to correctly reflect the law and prevailing market practice. RG 223 states that 'Trades with Price Improvement' are not in the ordinary course of trading and are not permitted for on-market buy-backs.[8]

UBS has adopted remedial measures to address this issue, including improving trader training, updating the equities desk manual and is implementing or developing trade monitoring enhancements.[9]

[1] ASIC, 'UBS Securities pays \$120,000 infringement notice' (Media Release 18-349MR) 20 November 2018 <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2018-releases/18-349mr-ubs-securities-pays-120-000-infringement-notice/>.

[2] Ibid.

[3] ASIC Gazette, *Markets Disciplinary Panel: Infringement Notice* (MDP02/18, 20 November

2018) https://download.asic.gov.au/media/4942525/mdp02_18.pdf [4].

[4] Ibid.

[5] ASIC, above n 23.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.