



2 June 2015

ANNOUNCEMENT OF NZ MARKETS DISCIPLINARY TRIBUNAL

PUBLIC CENSURE OF CRAIGS INVESTMENT PARTNERS LIMITED BY THE NZ MARKETS DISCIPLINARY TRIBUNAL FOR BREACHES OF NZX PARTICIPANT RULES 15.5 and 8.1.1(c).

1. The NZ Markets Disciplinary Tribunal (**Tribunal**) has approved a settlement agreement between NZX Limited (**NZX**), Craigs Investment Partners Limited (**AACA**) and an AACA dealer, dated 22 May 2015 (**Settlement Agreement**) in respect of breaches of NZX Participant Rules (**Rules**) 15.5 and 8.1.1(c).

Summary

2. AACA is an accredited and approved Trading Participant and NZX Advising Firm. AACA is bound by the Rules.
3. NZX determined that AACA had failed to comply with its obligations under Rule 15.5 by failing to ensure that all retail client orders were entered into NZX's trading system with a Common Shareholder Number (CSN), and accordingly Rule 8.1.1(c) by failing to at all times comply fully with the Rules and observe Good Broking Practice.
4. AACA has admitted the breaches and accepts the penalties outlined below.

Background

5. On 29 April 2013, in the course of carrying out its routine surveillance activity, NZX became aware of instances of non-compliance by AACA with Rule 15.5 in relation to the recording of CSNs for retail client orders placed into NZX's trading system. Specifically, at that time NZX identified various occasions where AACA recorded retail client orders with a wholesale flag.
6. On 8 May 2013, AACA advised NZX that, at that time, over 50% of AACA's retail client orders were being bundled together and recorded using the multiple flag 'M' in the trading system, implying that the order related to multiple clients/CSNs. As a significant portion of these orders did not relate to multiple retail clients, this practice was not compliant with Rule 15.5.
7. On 19 December 2013, NZX requested that AACA take immediate steps to amend its processes to ensure that it complied with the requirements of Rule 15.5. From December 2013, NZX and AACA discussed prospective changes AACA could implement to ensure its future compliance with Rule 15.5.
8. From March 2014 to July 2014, NZX reviewed sample trade data from AACA in the course of its routine surveillance activities, and performed an onsite inspection of AACA in July 2014.
9. On 5 September 2014, NZX released its inspection report which noted that custody CSNs had been set as the default in AACA's trading system in respect of a significant majority of sampled retail client orders.

10. Further to its surveillance activities and inspection process, NZX has identified that, during the period April 2013 to September 2014, AACA had entered retail client orders: (i) with wholesale flags, (ii) with the multiple flag 'M', and (iii) with custody CSNs set as the default.
11. Pursuant to Rule 15.5, AACA must ensure that all retail client orders are entered into its trading system with a CSN.
12. Pursuant to Rule 8.1.1(c), AACA must ensure at all times that it complies fully with all applicable Rules, any directions given from time to time by NZX and at all times observes Good Broking Practice.
13. AACA accepts that it breached its obligations pursuant to Rules 15.5 and 8.1.1(c). NZX and AACA have taken the view that, without derogating from the importance of Rule 15.5, none of AACA's clients have been adversely affected by the breaches.

Determination

14. The Tribunal considers breaches of the Rules relating to the reporting of trade data to be a serious matter. The provisions relating to the reporting of trading data are of critical importance for the integrity of the market because they allow NZX to carry out its statutory obligations, including the monitoring obligations in respect of potential market misconduct such as insider dealing and market manipulation. A breach of these Rules can bring NZX and the market into disrepute.
15. The Tribunal considers that AACA, as a Market Participant, has an obligation to be familiar with and meet its obligations under the Rules. This includes having appropriate compliance procedures in place to ensure that these obligations are met; by both itself and its employees.
16. The Tribunal is very concerned that despite being directed by NZX in 2013 to address its compliance in this area, the breaches of Rule 15.5 by AACA continued. The Tribunal considers that AACA lacked the internal controls expected of a Market Participant to adequately oversee its compliance in this area.
17. In determining to approve the Settlement Agreement, the Tribunal considered certain aggravating factors, including that:
 - a. AACA's non-compliance dates back to May 2013;
 - b. AACA did not implement system improvements to ensure compliance with Rule 15.5 in a timely manner;
 - c. During the period of its non-compliance with Rule 15.5, AACA employed three different methods of entering retail client orders which did not comply with the requirements of the Rule;
 - d. The use of these separate methods in each case followed engagement by NZX with AACA in relation to compliance with Rule 15.5; and
 - e. During the period of its non-compliance with Rule 15.5, AACA had no internal written compliance procedures specifically addressing compliance with Rule 15.5. This is notwithstanding that NZXR had previously raised the issue of non-compliance with Rule 15.5 with AACA.

18. In determining to approve the Settlement Agreement, the Tribunal considered certain mitigating factors, including that:
 - a. AACA has undertaken to implement a new software solution that will provide the ability for CSNs to be automatically applied throughout the trading process, thus ensuring AACA's future compliance with Rule 15.5; and
 - b. AACA has undertaken to implement written internal training and compliance procedures on the correct execution of trades in accordance with the Rules.

Penalties

19. NZX and AACA have reached a settlement and agreed that:
 - a. this public censure by the Tribunal will be made;
 - b. AACA will pay to the NZX Discipline Fund \$30,000 by way of penalty in respect of the breaches of Rules 15.5 and 8.1.1(c);
 - c. AACA will pay the costs of the Tribunal (plus GST, if any); and
 - d. AACA will contribute to NZX's costs as agreed.

Approval

20. The Settlement Agreement is approved by the Tribunal pursuant to Rule 10 of the NZ Markets Disciplinary Tribunal Rules (**NZMDT Rules**), and as such, the Settlement Agreement is the determination of the Tribunal.

Censure

21. The Tribunal hereby publicly censures AACA for its breaches of Rules 15.5 and 8.1.1(c).

The Tribunal

22. The Tribunal is a disciplinary body which is independent of NZX and its subsidiaries. The Financial Markets Authority approves its members. Under the NZMDT Rules, the Tribunal determines and imposes penalties for referrals made to it by NZX in relation to the conduct of parties regulated by the market rules.

Dated 2 June 2015