

MEDIA RELEASE (23-255MR)

Interactive Brokers pays \$832,500 penalty for 'negligent' and 'reckless' conduct

Published **20 September 2023**

Market participant Interactive Brokers Australia Pty Ltd (ACN 166 929 568) (Interactive Brokers) has paid a penalty of \$832,500 to comply with an infringement notice from the Market Disciplinary Panel (MDP).

The outcome follows the MDP finding that Interactive Brokers was 'negligent' in its failure to identify suspicious trading conducted by one of its clients. The MDP also found that Interactive Brokers was 'reckless' in continuing to allow further suspicious trading to occur after ASIC raised concerns about the trades, and that it did not maintain the necessary organisational and technical resources to comply with the law.

Market participants play an important gatekeeper role in detecting and preventing suspicious trading. They must have effective controls and adequate resources to efficiently identify and disrupt potential market misconduct, and they need to respond quickly to concerns raised by ASIC.

ASIC's concerns arose from certain Closing Single Price Auction (CSPA) orders placed by a client of Interactive Brokers on the ASX between 10 March and 5 November 2021. The client actively traded in Orthocell Ltd (OCC) shares and was known to Interactive Brokers as an experienced trader who had been employed in the industry.

The MDP considered that Interactive Brokers ought reasonably to have suspected the orders were suspicious for numerous reasons, including:

- that they were entered or amended late in the CSPA,
- were for a very small volume and value,
- they returned or held the price for OCC to or at the high of the day, and
- they were inconsistent with the client's previous trading during the relevant day.

The MDP found that Interactive Brokers allowed its client to place certain orders when it ought reasonably to have suspected the client was placing those orders with the intention of increasing the closing price of OCC, thereby creating a false or misleading appearance with respect to the price of OCC.

ASIC contacted Interactive Brokers on 14 October 2021 to advise the firm that its client's trading had triggered ASIC alerts. However, while it attempted to contact them, Interactive Brokers allowed the client to continue trading and place further suspicious orders.

Further, the client's trading in OCC triggered 44 'marking the close' alerts on Interactive Brokers' own surveillance systems between 10 February and 13 October 2021.

The MDP considered that Interactive Broker's response and follow up to the suspicious activity was inadequate, citing a number of reasons, including:

- alerts taking too long to be closed,
- the absence of meaningful notes in Interactive Brokers' reviews of the alerts,
- a lack of action to address the trading conduct of the client, and
- Interactive Brokers not lodging a suspicious activity report to ASIC until 5 November 2021.

The MDP considered that these circumstances demonstrated that Interactive Brokers did not have sufficient staff with the necessary skills, knowledge or experience to properly assess the alerts or those staff were not adequately supervised to ensure they were doing their job. The MDP noted that analysis of high-risk alerts must begin on the relevant trade date and review of all alerts should be concluded within a fortnight.

The MDP characterised this failure by Interactive Brokers as negligent as it should have realised that it did not maintain the necessary 'organisational and technical resources' to ensure that trading messages submitted by it did not interfere with the efficiency and integrity of the market.

Compliance with the infringement notice is not an admission of guilt or liability, and by doing so Interactive Brokers is not taken to have contravened subsection 798H(1) of the Corporations Act.

View the infringement notice on the [Markets Disciplinary Panel Outcomes Register](#).

ASIC media releases are point-in-time statements. Please note the date of issue and use the internal search function on the site to check for other media releases on the same or related matters.