

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

1 June – 3 June 2010

**Question: BET 239**

**Topic: Algorithmic Trading Bots**

**Hansard Page: Written**

**Senator BUSHBY asked:**

1. Is ASIC aware of any information that could explain the ASX's inability or negligence in permitting the use of artificial algorithmic trading bots to manipulate the stock price?
2. In the event of such manipulations, is ASIC able to identify the company who issues and uses the algorithmic trading bot responsible for artificially manipulating stock prices?
3. Is it true that the ASX are charging only 51 cents for each trade conducted by algorithmic trading bots and software?
4. Are the companies responsible for algorithmic trading that artificially suppresses the stock price paying full "retail" brokerage for each trade?
5. Does ASIC consider the use of algorithmic trading bots to be in breach of the fair trading act (1987), specifically, section II of the act, item 11 (2) (d), "whether... any unfair tactics were use against the consumer... by the person acting on behalf of the supplier", and section 12, (1)(g) "... makes a false or misleading representation concerning the price of goods or services"?
6. Does ASIC consider that the use of algorithmic trading bots contravenes s 52 of the Trade Practices Act 1974, where it states that "A corporation shall not, trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive"?

If this is the case, why has something not been done regarding this situation?

**Answer:**

1. Algorithmic trading is an important and growing element of the financial markets in Australia. Algorithmic trading like any trading can be manipulative but is usually not. The ASX has had the ability to detect manipulative trading (whether by algorithm or not) and has done so.
2. ASIC utilises sophisticated computer systems to detect market manipulation. When a possible case of market manipulation is found ASIC has the power to identify the participant responsible for the trading.

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3. Please see pages 4 and 5 of the attachment for ASX fee schedule.
4. Brokerage rates are negotiated between the participant and their client.
5. ASIC has powers under the Corporations Act 2001 [at Part 7.10] that deal with instances of market misconduct and other prohibited conduct related to financial products and financial services. Where ASIC identifies a possible contravention of the sections that fall within Part 7.10, be it through a surveillance that ASIC is conducting or another form of intelligence, ASIC will consider the possible breaches carefully, and refer to its Deterrence group where appropriate for possible enforcement action.
6. In Division 2 of the Australian Securities and Investments Commission Act 2001 ("**the ASIC Act**") is an equivalent section of s52 of the Trade Practices Act 1974. In particular, and for the purposes of consumer protection, it prohibits conduct where a person, in trade or commerce, has engaged in conduct in relation to financial services that is misleading or deceptive, or is likely to mislead or deceive.
7. This is in addition to the obligation to not make false or misleading statements (s1041E) under the Corporations Act. In both these instances, ASIC will consider conduct that may in breach of these (or related) sections and take enforcement action where appropriate.