



ASIC

Australian Securities & Investments Commission

REPORT 70

Market assessment report: ICAP Europe Limited

February 2006



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Annual assessment (s794C) report

ICAP Europe Limited
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Executive summary

ICAP Europe Limited (IEL) is licensed to operate the financial market known as FRA-Cross in this jurisdiction. IEL is regulated in this jurisdiction by ASIC under Part 7.2 of the Corporations Act. However, IEL's primary or "home" regulator is the Financial Services Authority (FSA) in the United Kingdom, from where FRA-Cross is operated.

This report summarises ASIC's assessment under s794C of IEL's compliance with its obligations to supervise its market under s792A(c) of the *Corporations Act 2001* (Corporations Act). Section 2 sets out ASIC's observations concerning IEL's supervision of the market, regulation by the FSA and IEL's reporting obligations.

Compliance by IEL

ASIC is satisfied that IEL has and will continue to comply with its obligations under the Corporations Act.

Section 1: Background

1.1 IEL and the market

IEL was granted an Australian market licence on 23 December 2003. The licence permits IEL to operate its market known as FRA-Cross in this jurisdiction. FRA-Cross is an electronic trading system in forward rate agreements. ASIC is responsible for regulating the market in this jurisdiction under Part 7.2 of the Corporations Act.

The market is not a public market and operates as a closed system in accordance with the market rules and procedures. There were seven Australian participants of the market as at the end of October 2005.

Regulation of IEL

IEL continues to be subject to the supervision and regulation of FSA in the United Kingdom, and is permissioned under the Alternative Trading Systems regime of the FSA as described in ASIC's June 2005 assessment report of IEL.

While IEL is required to comply with each of its obligations under the Corporations Act and any conditions imposed on its licence, ASIC continues to rely (to some extent) on the regulation of IEL and FRA-Cross undertaken by the FSA to be satisfied that IEL is complying with its Australian obligations.

In this regard we note that ASIC continues to have an effective cooperative relationship with FSA under a memorandum of understanding entered into by ASIC and FSA dated 24 June 2002. ASIC and the FSA are also signatories to the IOSCO Multilateral Memorandum of Understanding.

1.2 The assessment process

How we conducted this assessment

Our assessment of IEL in the reporting period to December 2005 was based on information that ASIC had at hand, and information obtained from IEL and from FSA. Specifically, in conducting our assessment under s794C, we:

- analysed information received from and about IEL in the ordinary course of our dealings with IEL;
- reviewed IEL's most recent annual report, IEL's annual regulatory report under s792F, and their six-monthly market reports under s9 of IEL's market licence;

- sought additional information from IEL for the purpose of this assessment;
- obtained information from the FSA about the market and IEL;
and
- also considered how well IEL might comply with its obligations in the future.

Section 2: Observations

2.1 Supervision of the market

IEL has a number of ongoing obligations under the Corporations Act, including the requirements under s792A to ensure, to the extent that is reasonably practicable to do so, that the FRA-Cross market is a fair, orderly and transparent market.

In particular, s792A(c) of the Corporations Act requires that IEL have adequate arrangements for supervising the FRA-Cross market. Paragraph 792A(c)(i) requires that IEL have adequate arrangements for handling conflicts between its commercial interests and the need for it to ensure that the market operates in a fair, orderly and transparent way; paragraph 792A(c)(ii) requires that IEL have adequate arrangements for monitoring the conduct of participants on or in relation to the market; and paragraph 792A(c)(iii) requires that IEL have adequate arrangements for enforcing compliance with the market's operating rules.

After making our assessment, ASIC concludes that IEL has adequate arrangements for the supervision of its market in accordance with its obligations under s792A(c) of the Corporations Act. ASIC's conclusion is based on the following observations:

1. IEL's arrangements for supervising its market, as described under their Australian market licence, continue to adequately satisfy the requirements under s792A of the Corporations Act;
2. IEL has confirmed to ASIC that the arrangements for supervising the market have not changed in any material way from the description provided in the previous annual reporting period;
3. FSA confirmed that it had no concerns with IEL's supervision of FRA-Cross; and
4. During our assessment, nothing came to our attention to suggest that the supervisory arrangements were not operating properly.

2.2 Other observations

Regulation of FRA-Cross in the United Kingdom

As part of its assessment of IEL, ASIC sought information from FSA about FSA's regulation of IEL during the assessment period. The FSA has not advised ASIC of any concerns regarding IEL's supervisory arrangements.

IEL's permissions and requirements that apply with regards to the regulation of Alternative Trading Systems have not changed since

December 2004, and the FSA has not taken any disciplinary action against IEL during this reporting period.

Reporting obligations

Annual regulatory report

IEL lodged its s792F annual regulatory report for the period 1 April 2004 to 31 March 2005 with ASIC on 21 June 2005. ASIC notes that this report was lodged within the required period for lodgement.

General obligations

With reference to the obligations set down under s792A (see section 2.1), IEL reports that its supervisory arrangements in place to address these requirements have not materially changed since IEL was granted an Australian market licence on 23 December 2003. IEL has also reported that the FSA has not highlighted any particular regulatory or compliance concerns, nor has any disciplinary action been taken against them by FSA in relation to services provided under its Australian Market Licence.

Reports required by licence

Under Section 9 of its market licence, IEL must lodge reports with ASIC every six months that provide information about the volumes traded on FRA-Cross in Australia and globally, and list all Australian participants. ASIC notes that the section 9 reports were lodged within the required period, and that the reports contained the information as required under the licence.

Section 3: Recommendations

ASIC has not made any recommendations concerning IEL's structure or arrangements as a result of this assessment.