



ASIC

Australian Securities & Investments Commission

REPORT 267

Market assessment report: Yieldbroker Pty Limited

ACN 092 250 345

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About this report

This report summarises ASIC's eighth annual assessment of Yieldbroker Pty Limited (Yieldbroker) under s794C of the *Corporations Act 2001* (Cth) (Corporations Act).

This assessment covers the period 1 October 2010 to 30 September 2011 (the assessment period).

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Previous reports on Yieldbroker

Yieldbroker was granted an Australian market licence on 3 February 2004.

Report number	Report date
REP 228	January 2011
REP 189	January 2010
REP 163	July 2009
REP 114	February 2008
REP 87	November 2006
REP 60	October 2005
REP 45	June 2005

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Key findings and recommendations

Key findings

- 1 ASIC is satisfied that during the assessment period Yieldbroker had:
 - adequate arrangements for the supervision of its markets in accordance with its obligations under s792A(c) of the Corporations Act; and
 - sufficient resources to operate its markets properly and for the required supervisory arrangements to be provided under s792A(d) of the Corporations Act.

Recommendations

- 2 We do not have any recommendations to make about Yieldbroker's supervisory arrangements.

A The assessment

Key points

ASIC conducts annual assessments of market licensees, such as Yieldbroker, because it is required to do so under s794C of the Corporations Act.

The scope of our assessment must always include the obligations found in s792A(c), but we can include other Ch 7 obligations too.

We use the licensee's self-assessment reports, information from our previous assessments, our observation of the licensee's performance, market intelligence and other things to form a view of how well the licensee has operated its market.

Purpose and scope

- 3 On 1 August 2010, ASIC took over responsibility for supervising Australia's domestic licensed markets from market operators. As a consequence, amendments were made to the obligations contained in s792A(c) of the Corporations Act. Regulation 10.14.02 of the Corporations Amendment Regulations 2010 states that these amendments do not apply to certain market operators, including Yieldbroker.
- 4 Therefore, Yieldbroker's obligations under s792A(c) remain as they were before the transfer of supervision to ASIC. That is, Yieldbroker is required to have adequate arrangements for supervising the markets, including arrangements for:
 - handling conflicts between its commercial interests and its need to ensure that the markets are fair, orderly and transparent;
 - monitoring the conduct of participants on or in relation to the markets; and
 - enforcing compliance with the operating rules.
- 5 ASIC is required to assess how well a market licensee complies with its obligations under s792A(c) at least once a year: s794C(2).
- 6 In addition, we are permitted to extend the scope of our assessment to review how well a licensee complies with any or all of its obligations under Ch 7: s794C(1). In this instance, we extended the scope of the assessment to include a review of whether Yieldbroker had sufficient financial, technological and human resources to comply with its obligations under s792A(d). (The obligations on domestic market operators regarding sufficiency of resources also changed following the transfer of supervision; however, again, these changes do not apply to certain market operators, including Yieldbroker.)
- 7 This report covers the period 1 October 2010 to 30 September 2011.

Background

- 8 Yieldbroker was granted an Australian market licence on 3 February 2004. A copy of Yieldbroker's licence is available on ASIC's website at www.asic.gov.au/markets.
- 9 Yieldbroker's licence permits it to operate two markets: the Dealer & Client market and Interdealer market. Both markets are electronic platforms that facilitate trading in bonds and debentures. Current products traded on the markets include Australian government and semi-government bonds, CPI-linked bonds, treasury notes, corporate bonds, floating rate notes and New Zealand government bonds.
- 10 Yieldbroker's platform has an auction functionality (available to Dealer & Client market participants only) that is used by:
- the Australian Office of Financial Management for issuing Australian government treasury bonds, treasury indexed bonds and treasury notes;
 - the Reserve Bank of Australia to conduct long-end liquidity operations; and
 - a number of semi-government borrowers.
- 11 In the over-the-counter financial markets, the total turnover of Australian government debt securities and non-government debt securities for the 2010–11 period was \$1483 billion and \$908 billion, respectively.¹
- 12 The Dealer & Client market allows participants known as clients to request quotes from participants known as dealers. Dealers can also post unsolicited live prices at which they are prepared to deal, for clients to respond to. The Interdealer market allows dealer participants to request quotes from, and trade with, each other.
- 13 Yieldbroker has recently introduced (via an operating rule change) a new trading functionality in the Interdealer market which allows the matching of bids and offers without the rate and volume of the particular debt security on offer being revealed to counterparties beforehand. Before the new functionality was added, Interdealer participants were restricted to responding to specific rates and volumes set by their counterparties.
- 14 Participation in Yieldbroker's markets is restricted to professional investors trading on their own behalf or on behalf of anyone who is not a retail client.

¹ Australian Financial Markets Association, *2011 Australian Financial Markets Report*, p. 3.

Our methodology

Our assessment process

- 15 A market licensee's obligations are ongoing. Whether it is likely to comply with its obligations in the future cannot be judged merely by reference to its past compliance.
- 16 We therefore use the assessment process to:
- reach conclusions about the adequacy of the arrangements a market licensee (such as Yieldbroker) had in place for supervising its market in accordance with its obligations under the Corporations Act at the time of the assessment; and
 - identify issues, which in our view need, or may need, to be addressed to ensure ongoing compliance.

What we focused on for this assessment

- 17 Our focus in this assessment was to review:
- any changes in Yieldbroker's operations from the previous year's assessment;
 - Yieldbroker's supervisory procedures; and
 - the adequacy of Yieldbroker's resources.

What we considered

- 18 In conducting our assessment we considered:
- information we received from and about Yieldbroker in the ordinary course of our dealings with Yieldbroker, including Yieldbroker's annual regulatory report required under s792F;
 - Yieldbroker's unaudited financial statement for the year ended 30 June 2011;
 - documents produced by Yieldbroker in response to our notice under s30 of the *Australian Securities and Investments Commission Act 2001*, issued to obtain information about how Yieldbroker is meeting certain obligations under the Corporations Act; and
 - Yieldbroker's policies and procedures for the conduct of Yieldbroker in general and its supervisory responsibilities in particular.

Consultation

- 19 Our findings are set out in Section B of this report. Yieldbroker has had the opportunity to view and comment on the factual accuracy of a draft version of this report. Where appropriate, our findings in Section B reflect Yieldbroker's clarifications.

B Our observations

Key points

We have considered the adequacy of Yieldbroker's arrangements and resources for supervising its markets, including arrangements for:

- handling conflicts between its commercial interests and its need to ensure that the markets are fair, orderly and transparent;
- monitoring the conduct of participants on or in relation to the markets; and
- enforcing compliance with the operating rules.

Yieldbroker did not make any substantial changes to its supervisory arrangements during the assessment period.

We do not have any recommendations to make about Yieldbroker's supervisory arrangements or resources.

We also note that Yieldbroker has complied with its reporting obligations under the Corporations Act.

Supervisory arrangements

- 20 We conclude that during the assessment period Yieldbroker had:
- adequate arrangements for the supervision of its markets in accordance with its obligations under s792A(c) of the Corporations Act; and
 - sufficient resources to operate its markets properly and for the required supervisory arrangements to be provided under s792A(d) of the Corporations Act.
- 21 This conclusion is based on the following observations:
- Yieldbroker's supervisory arrangements did not change during the assessment period. These arrangements include:
 - a Compliance Officer who is responsible for supervising the markets and participants, and has supervisory and some disciplinary powers;
 - a Compliance Committee that oversees supervision and has the power to conduct disciplinary hearings; and
 - the disciplinary powers of the Board of Directors.
 - Participation in the markets is restricted to professional investor participants who can only trade on their own behalf or on behalf of wholesale clients.

- No serious market failures or disruptions have occurred during the assessment period.
- No information has come to our attention to suggest that the supervisory arrangements in place have not been operating properly.

Managing conflicts of interest

- 22 Yieldbroker's arrangements for managing conflicts of interest between its supervisory and commercial interests have not changed since the previous assessment. These arrangements include:
- a Compliance Officer who is not involved in the commercial decision-making activities of Yieldbroker;
 - a requirement in the operating rules for the Compliance Committee members to avoid acting in connection with any matter that places them in a position of conflict between their duties as a member of the committee and any other duty or interest; and
 - maintenance of a conflicts of interest register to record all conflicts of interest issues and actions taken.
- 23 Yieldbroker has reported that no conflicts of interest arose during the assessment period.

Monitoring the markets and conduct of participants

- 24 Yieldbroker has not made any changes to the way it monitors the markets and conduct of participants. In brief:
- Yieldbroker's monitoring software, Tibtomcat, monitors all system activity in real time and provides static reporting;
 - on a weekly basis, the Compliance Officer reviews all price and trading information obtained via the system's reporting function. The reviews are aimed at identifying patterns of behaviour that may evidence breaches, or possible breaches, of the operating rules and/or the Corporations Act;
 - in relation to real-time monitoring of system activity, Tibtomcat generates alarm notices when the system detects conduct on the markets that triggers or exceeds certain parameters set by the system; and
 - the Compliance Officer provides monthly reports to the Board that include the results of the weekly review, the investigation and assessment of any issues and/or disputes, and the steps taken to resolve these issues and/or disputes.
- 25 Further details are set out at paragraphs 21–27 of *Market assessment report: Yieldbroker Pty Limited* (REP 189).
- 26 Yieldbroker has reported that there was no observed or suspected conduct in contravention of the operating rules during the assessment period.

Enforcing compliance with market operating rules

- 27 On 2 May 2011, Yieldbroker amended its operating rules to:
- enable it to make changes to the agreements it had in place with its participants, by replacing participant-specific deeds (that were required to be executed) with one generic agreement (capable of being accepted online); and
 - introduce the concept of an ‘Authorised Interface’ as a means by which participants could connect to the Yieldbroker system.
- 28 On 2 November 2011, Yieldbroker further amended its operating rules to allow it to introduce a new functionality in the Interdealer market: see paragraph 13.
- 29 Yieldbroker has not made any changes to the way it enforces compliance with its operating rules. In brief, Yieldbroker enforces compliance through:
- undertakings by participants to comply with the participation deed (or participation agreement), operating rules, the Corporations Act, Australian Financial Markets Association (AFMA) and other market conventions and any directions issued by us;
 - the Compliance Officer’s power to issue warnings to participants who have breached an operating rule, or make a recommendation to the Compliance Committee for the Board to take disciplinary action; and
 - the Board’s power to make a final determination by issuing warnings or fines, suspending or terminating a participant’s access to the system, removing a participant’s pricing references from the system and/or directing the Compliance Officer to notify us.
- 30 Further details regarding Yieldbroker’s procedures for enforcing compliance are set out at paragraphs 28–32 of REP 189.
- 31 Yieldbroker has reported that during the assessment period there were no investigations or disputes and the Compliance Committee was not required to convene.

Resources

- 32 We are satisfied that during the assessment period Yieldbroker had sufficient financial, technological and human resources for the required supervisory arrangements to be provided.

Financial resources

33 We have reviewed Yieldbroker's financial position and are satisfied that it has access to sufficient financial resources to operate its markets and to provide adequate supervisory arrangements.

34 Yieldbroker's financial resources are derived from:

- participation fees on dealers in the Dealer & Client market;
- trade fees levied in the Interdealer market; and
- income from the distribution of indicative price data.

35 Yieldbroker is currently owned in equal shares by 12 large financial institutions.

Technological resources

36 Yieldbroker's technological resources have dealt adequately with existing volumes on the markets and no serious market disruptions have occurred.

37 Yieldbroker's technological resources comprise various leased and owned hardware assets, software applications, and processes for trading and system auditing, monitoring and reporting. These processes include periodic reviews of system security to identify and resolve any significant risks, and to ensure that activity on the system is always secured in line with industry expectations. Yieldbroker's Helpdesk staff monitors all system logins in real time and reviews logins daily.

Human resources

38 During the assessment period, Yieldbroker relied on its General Manager, Compliance Officer and Helpdesk staff to perform the required supervisory functions for the markets. In our view, this resourcing is sufficient.

39 Yieldbroker is in the process of recruiting a new Compliance Officer. The current Compliance Officer will be returning to her previous role (as Helpdesk operator and office assistant) after a replacement is found. In our next assessment, we will review whether the compliance hand-over process was adequate and whether the replacement person is performing the supervisory functions required of the role.

Conclusion

40 Based on this assessment, we do not have any recommendations to make about Yieldbroker's supervisory arrangements.

Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services <p>Note: This is a definition contained in s761A of the Corporations Act.</p>
ASIC	Australian Securities and Investments Commission
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
Ch 7 (for example)	A chapter in the Corporations Act (in this example numbered 7)
Corporations Act	<i>Corporations Act 2001</i> (Cth), including regulations made for the purposes of that Act
market licensee	Holder of an Australian market licence
s794C (for example)	A section of the Corporations Act (in this example, numbered 794C), unless otherwise specified