



ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

National Australia Bank Limited ACN 004 044 937 800 Bourke Street
DOCKLANDS VIC 3008

DEFINITIONS

- 1.1 In addition to terms defined elsewhere in this undertaking, the following definitions are used:

Annual Review Date means 1 February each calendar year until and including the calendar year 2016, but not including 1 February 2014

APX means Asia Pacific Exchange Limited

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth)

ASX means ASX Limited

ASX24 means Australian Securities Exchange Limited

Chi-X means Chi-X Australia Pty Ltd

Corporations Act means the *Corporations Act 2001* (Cth)

Dec SPI means ASX SPI 200 Index Futures that were due to expire in December 2012

FEX means Financial and Energy Exchange Ltd

IMB means IMB Limited

Index means the S&P/ASX 200 Index

Market Misconduct Provisions means the provisions in Division 2 of Part 7.10 of the *Corporations Act 2001*

NAB means National Australia Bank Limited ACN 004 044 937 and does not include the Contractor, as defined in paragraph 2.5 of this undertaking, nor the Contractor's Trading Personnel, as defined in paragraph 2.6 of this undertaking

NXSA means National Stock Exchange of Australia Limited

Oct SPI means ASX SPI 200 Index Futures that were due to expire in October 2012

OPSA means the Opening Single Price Auction on the ASX

SIM VSE means SIM Venture Securities Exchange Ltd

Special Opening Quotation of the Index means the value of the Index used to determine the cash settlement price of SPI Futures, calculated using the first traded price of XJO Securities on a trading day on which a SPI Futures expires or, in the absence of trades on the last trading day for any XJO Securities, the last traded prices for those securities.

SPI Futures means ASX SPI 200 Index futures contracts

XJO Securities means the securities comprising the S&P/ASX200 Index.

- 1.2 Except so far as the contrary intention appears in this undertaking, the interpretation provisions in Part 1.2 of the Corporations Act and Part 2 Division 4 of the ASIC Act apply for the purposes of this undertaking as if those provisions were provisions of this undertaking.

BACKGROUND

ASIC's role

- 2.1 Under s1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

Details of Conduct

- 2.2 ASIC has been, and is continuing, investigating suspected contraventions of the Corporations Act relating to:
 - 2.2.1 the entry and amendment of orders, and trading conducted, for NAB on 18 October 2012 on ASX in relation to XJO Securities; and
 - 2.2.2 trading of Dec SPI conducted for NAB on 18 October 2012 on ASX24.
- 2.3 The entry and amendment of the orders and the trading that is the subject of ASIC's investigation are referred to in this Enforceable Undertaking as the "**18 October 2012 Order and Trading Activity**".
- 2.4 The 18 October 2012 Order and Trading Activity was conducted for NAB as principal, by the personnel of another contractor with which NAB had entered into contractual arrangements. Under those arrangements, that contractor agreed to provide to NAB the contractor's proprietary software trading products, services and personnel services for the purpose of those personnel conducting securities index arbitrage trading for NAB ("the **Arbitrage Trading**"). In return, NAB agreed to pay the contractor software fees, personnel fees and performance payments. The contractor was not a

subsidiary of NAB.

- 2.5 The name of the contractor with whom NAB had contracted has, for legal reasons, been withheld from this Enforceable Undertaking. That contractor is referred to in this Enforceable Undertaking as “the **Contractor**”.
- 2.6 NAB had appointed the Contractor and three of its personnel (“the **Contractor’s Trading Personnel**”) as NAB’s authorised representatives, under NAB’s Australian Financial Services Licence (No. 230686), solely for the purpose of the Contractor and those personnel conducting the Arbitrage Trading.
- 2.7 For the purpose of engaging in the 18 October 2012 Order and Trading Activity, the Contractor’s Trading Personnel utilised direct market access to the ASX and ASX24 that NAB had arranged, under contract, with UBS Securities Australia Pty Limited (“**UBS**”) and JP Morgan Markets Australia Pty Limited (“**JP Morgan**”). The relevant direct market access contract with UBS obligated NAB, when using the direct market access, to comply with laws, rules and regulations, which included the ASIC Market Integrity Rules (ASX Market) 2010 (“the **Market Integrity Rules**”).
- 2.8 ASX Market Rules Guidance Note No. 32, *Bulk Authorisation Of Index Arbitrage Orders in ITS*, currently applies, and during 2012, applied in relation to the Market Integrity Rules to provide Market Participants with guidance in relation to the entry (which also covers the amendment) on ASX of index arbitrage orders that are to trade in the OSPA. It provides, among other things, guidance that total orders valued at up to \$200 million are to be entered and/or amended no later than two minutes before the opening of the OSPA rotation in which the orders are to trade.

NAB’s Position on 17 and 18 October 2012

- 2.9 As at the close of trading on 17 October 2012, NAB, relevantly:
 - 2.9.1 held a short stock long futures index arbitrage position under which it held 1,962 bought Oct SPI (“the **Negative October Position**”);
 - 2.9.2 held a long stock short futures arbitrage position under which it held 7,941 sold Dec SPI (“the **Positive December Position**”); and
 - 2.9.3 held a portfolio of XJO Securities, valued at approximately \$656 million, against both the Negative October Position and the Positive December Position.
- 2.10 As at the close of trading on 17 October 2012, two of the Contractor’s Trading Personnel (“the **Contractor’s October Personnel**”) had decided to take the Negative October Position to expiry. In doing so, the 1,962 Oct SPI comprised in the Negative October Position would expire automatically and settle at the value of the Special Opening Quotation of the Index on 18 October 2012. As a result, the Contractor’s October Personnel needed to close out the notional sold stock position NAB held as part of the Negative October Position. The

Contractor's October Personnel decided to do so by buying, on 18 October 2012, an equivalent portfolio of XJO Securities at the prices at which those securities would match in the OSPA on that date ("the **October Stock Portfolio**").

- 2.11 The Contractor's October Personnel arranged to buy the October Stock Portfolio from one of NAB's brokers, Goldman Sachs Australia Pty Ltd ("**Goldmans**"), at the prices at which those securities would match in the OSPA on 18 October 2012.
- 2.12 Goldmans bought the October Stock Portfolio in the OSPA on 18 October, and transferred the securities later that day, by means of special crossings on the ASX, to NAB.
- 2.13 Goldmans was not aware, at the time it placed its orders to buy the October Stock Portfolio that the Contractor's October Personnel were to sell XJO Securities for NAB in the OSPA on 18 October 2012. Goldmans became aware of those sales after they took place.

Purchase of Dec SPI and Sale of Basket of XJO Securities on 18 October 2012

- 2.14 During the morning of 18 October 2012, the Contractor's October Personnel had entered onto ASX, via direct market access through UBS, sell orders in respect of 197 of the XJO Securities ("the **Sell Orders**").
- 2.15 As at 9:40am on 18 October 2012, the value of the Sell Orders was equivalent to the value of approximately 1400 Dec SPI. From 9:40 to 9:53 the Sell Orders were amended such that their value was within a range equivalent to the value of approximately 1,500 to 2,000 Dec SPI. At 9:53:40 the Sell Orders were further amended such that their value was within a range equivalent to approximately 1,800 to 1,900 Dec SPI, being approximately \$200 million.
- 2.16 At 9:55am on 18 October 2012 the Contractor's October Personnel commenced buying Dec SPI to correspond to the XJO Securities they proposed to sell in the first rotation of the OSPA on that date, which would occur within the period 10:00am +/- 15 seconds. The timing of that rotation within that period is randomly determined by ASX. The Contractor's October Personnel needed to buy approximately 471 Dec SPI by the first rotation of the OSPA to correspond to those of the Sell Orders that were on ASX at 9:55am and that related to XJO Securities that would trade in that first rotation. The Dec SPI buy orders were placed and traded electronically, via direct market access provided to NAB by JP Morgan.
- 2.17 By approximately 9:59:38am the Contractor's October Personnel had bought 100 Dec SPI.
- 2.18 At 9:59:41am the Contractor's October Personnel entered amendments to reduce, by approximately 70 percent, the volume of those Sell Orders that were due to trade in the first rotation of the OSPA. The reduction in the

volume of those sell orders caused an increase in the indicative match prices of the securities to which the orders related. Those securities traded in the OSPA at 9:59:53 at match prices that were higher than their indicative match prices immediately prior to the reduction of the volume of the relevant Sell Orders after 9:59:41am.

- 2.19 The volumes of the balance of the Sell Orders that were to be traded in the remaining four rotations of the OSPA were not reduced until approximately 1 ½ to 3 minutes prior to the earliest possible opening time for each rotation. The volumes of those sell orders were amended separately for each of the remaining four rotations of the OSPA, by approximately 70 percent, in a series of stepped reductions that concluded just prior to the earliest possible opening time for each rotation. The securities which were the subject of those sell orders traded in the OSPA at match prices that were higher than their indicative match prices immediately prior to the first of the stepped reductions that related to each security.
- 2.20 ASIC has analysed orders placed and amended and trading conducted in XJO Securities and SPI Futures by the Contractor's Trading Personnel for NAB on the expiry days for SPI Futures in April, May, June, July and August 2012. That analysis shows that:
- 2.20.1 as at 9:57am on each of those expiry days NAB had large volume sell or buy orders for XJO Securities on the ASX;
- 2.20.2 the volumes of those orders were substantially reduced after 9:57am, with the volume reductions:
- (1) being staggered for the XJO Securities according to the order in which they would trade in the OSPA; and
 - (2) commencing shortly before, but being completed by, the earliest possible opening time of the rotation of the OSPA in which the relevant XJO Securities would trade; and
- 2.20.3 NAB traded SPI Futures on each of these expiry days.
- 2.21 NAB has also, as part of its own investigation of the 18 October 2012 Order and Trading Activity, caused some analysis to be undertaken of order and trading activity in relation to SPI Futures and XJO Securities traded in the first rotation of the OSPA, by the Contractor's Trading Personnel for NAB on, among others, the SPI Futures expiry days referred to in paragraph 2.20 as well as those in January and February 2012. That analysis showed that on each of those expiry days, the Contractor's Trading Personnel had:
- 2.21.1 entered onto ASX large volume buy or sell orders;
- 2.21.2 substantially reduced the volume of those orders within 1 ½ minutes prior to the opening of the first rotation of the OSPA ; and
- 2.21.3 traded SPI Futures prior to the first rotation of the OSPA.

- 2.22 The expiry days for SPI Futures in January, February, April, May, June, July and August 2012 are referred to in this undertaking as the “**Previous Expiry Days**”.
- 2.23 The entry and amendment of the orders and the trading that are referred to in paragraphs 2.20 and 2.21 are described in this undertaking as “the **Previous Expiry Days’ Order and Trading Activity**”.
- 2.24 ASIC has also analysed orders placed and amended and trading conducted in XJO Securities by the Contractor’s Trading Personnel for NAB on trading days during the period 1 to 17 October 2012. That analysis shows that on eight of those days (“the **Earlier October Trading Days**”) there was a similar pattern of order volume entry and reduction to that described in paragraphs 2.20 and 2.21 but that the value of the orders, both prior to and after their reduction, was lower than for orders on the Previous Expiry Days. For three of those days the relevant orders were sell orders. The orders for the remaining five trading days were buy orders.
- 2.25 NAB had not, prior to 18 October 2012, identified or queried the Previous Expiry Days’ Order and Trading Activity nor the order activity described in paragraph 2.24.
- 2.26 Following the trading on 18 October 2012, NAB limited the trading of the Contractor’s Trading Personnel by precluding them from establishing new index arbitrage positions and directing them to unwind the existing index arbitrage positions that the Contractor’s Trading Personnel had established for NAB. NAB did so as it had decided to discontinue the Arbitrage Trading.
- 2.27 NAB terminated its agreements with the Contractor and the Contractor’s Trading Personnel, and ceased the Arbitrage Trading, in December 2012.
- 2.28 As at and prior to 18 October 2012, NAB did not have in place at NAB any formal real-time, close to real-time or post trade compliance monitoring of the order entry, amendment and trading for it by the Contractor’s Trading Personnel for the purpose of preventing and detecting conduct potentially in breach of the Market Misconduct Provisions and possibly inconsistent with NAB’s contractual obligations with its brokers to not interfere with market integrity.

ASIC's Concerns

- 2.29 ASIC is concerned that:
- 2.29.1 on 18 October 2012, the Contractor’s October Personnel may have:
- (1) placed the Sell Orders in a larger volume than they intended to trade in the OSPA for the purpose and with the effect of:
 - (a) misleading the market that a greater volume of XJO Securities were likely to be sold, at lower prices, in the OSPA on 18 October 2012;

- (b) reducing the indicative match prices of XJO Securities prior to their trading in the OSPA; and
- (c) reducing the price for trading Dec SPI on ASX 24 prior to and during the time of the OSPA on 18 October 2012,

so that the Contractor's October Personnel could buy Dec SPI at lower prices for NAB; and

- (2) reduced the volume of the Sell Orders prior to, and proportionately for, each rotation of the OSPA on 18 October 2012 for the purpose, and with the effect of, increasing the match price of the XJO Securities in the OSPA (relative to their indicative match prices immediately prior to the order volume reductions), so that the Contractor's October Personnel could sell XJO Securities at higher prices for NAB,

in breach of s1041A and/or 1041B(1) of the Corporations Act;

2.29.2 on five of the Previous Expiry Days, the Contractor's Trading Personnel may have:

- (1) placed sell orders in a larger volume than they intended to trade in the OSPA on those days for the purpose, and with the effect, of:
 - (a) misleading the market that a greater volume of XJO Securities were likely to be sold, at lower prices, in the relevant OSPA;
 - (b) reducing the indicative match prices of XJO Securities prior to their trading in the OSPA; and
 - (c) reducing the price for trading the SPI Futures that were bought by the Contractor's Trading Personnel on those days on ASX24 prior to and during the OSPA on those days,

so that the Contractor's Trading Personnel could buy those SPI Futures at lower prices for NAB ; and

- (2) reduced the volume of those sell orders prior to, and proportionately for, each rotation of the OSPA on those days for the purpose, and with the effect, of increasing the price of the XJO Securities in the OSPA (relative to their indicative match prices immediately prior to the order volume reductions), so that the Contractor's Trading Personnel could sell XJO Securities at higher prices for NAB,

in breach of s1041A and/or 1041B(1) of the Corporations Act;

2.29.3 on two of the Previous Expiry Days, the Contractor's Trading Personnel may have:

- (1) placed buy orders in a larger volume than they intended to trade in the OSPA on those days for the purpose, and with the effect, of:
 - (a) misleading the market that a greater volume of XJO Securities were likely to be bought, at higher prices, in the relevant OSPA;
 - (b) increasing the indicative match prices of XJO Securities prior to their trading in the OSPA; and
 - (c) increasing the price for trading the SPI Futures that were sold by the Contractor's Trading Personnel on those days on ASX24 prior to and during the OSPA on those days,

so that the Contractor's Trading Personnel could sell those SPI Futures at higher prices for NAB; and

- (2) reduced the volume of those buy orders prior to, and proportionately for, each rotation of the OSPA on those days for the purpose, and with the effect, of reducing the price of the XJO Securities in the OSPA (relative to their indicative match prices immediately prior to the order volume reductions), so that the Contractor's Trading Personnel could buy XJO Securities at lower prices for NAB,

in breach of s1041A and/or 1041B(1) of the Corporations Act;

2.29.4 On three of the Earlier October Trading Days, the Contractor's Trading Personnel may have:

- (1) placed sell orders in a larger volume than they intended to trade in the OSPA on those days for the purpose, and with the effect, of:
 - (a) misleading the market that a greater volume of XJO Securities were likely to be sold, at lower prices, in the relevant OSPA;
 - (b) reducing the indicative match prices of XJO Securities prior to their trading in the OSPA; and
 - (c) reducing the price for trading the SPI Futures that were bought by the Contractor's Trading Personnel on those days on ASX24 prior to and during the OSPA on those days,

so that the Contractor's Trading Personnel could buy those SPI Futures at lower prices for NAB; and

- (2) reduced the volume of those sell orders prior to, and proportionately for, each rotation of the OSPA on those days for the purpose, and with the effect, of increasing the price of the XJO Securities in the OSPA (relative to their indicative match prices immediately prior to the order volume reductions), so that the Contractor's Trading Personnel could sell XJO Securities at higher prices for NAB,

in breach of s1041A and/or 1041B(1) of the Corporations Act;

2.29.5 on five of the Earlier October Trading Days, the Contractor's Trading Personnel may have:

- (1) placed buy orders in a larger volume than they intended to trade in the OSPA on those days for the purpose, and with the effect, of:
 - (a) misleading the market that a greater volume of XJO Securities were likely to be bought, at higher prices, in the relevant OSPA;
 - (b) increasing the indicative match prices of XJO Securities prior to their trading in the OSPA; and
 - (c) increasing the price for trading the SPI Futures that were sold by the Contractor's Trading Personnel on those days on ASX24 prior to and during the OSPA on those days,

so that the Contractor's Trading Personnel could sell the relevant SPI Futures at higher prices for NAB; and

- (2) reduced the volume of those buy orders prior to, and proportionately for, each rotation of the OSPA on those days for the purpose, and with the effect, of reducing the price of the XJO Securities in the OSPA (relative to their indicative match prices immediately prior to the order volume reductions), so that the Contractor's Trading Personnel could buy XJO Securities at lower prices for NAB,

in breach of s1041A and/or 1041B(1) of the Corporations Act;

2.29.6 NAB is vicariously responsible for the conduct of the Contractor's Trading Personnel outlined in paragraph 2.29; and

2.29.7 NAB failed to adequately supervise, monitor and control the conduct of the Contractor's Trading Personnel so as to prevent and/or detect the entry, amendment and/or trading of orders by NAB, or by those persons who undertake order and trading activity on behalf of NAB, in contravention of the Market Misconduct Provisions.

Acknowledgement of concerns

2.30 NAB acknowledges ASIC's Concerns and that they are reasonably held.

UNDERTAKINGS

- 3.1 Under s93AA of the ASIC Act, NAB has offered, and ASIC has agreed to accept, as an alternative to commencing civil proceedings or pursuing administrative action against NAB in relation to the matters described in ASIC's Concerns, the following undertakings:
- (a) NAB undertakes to make, by 14 March 2014, or such other date as agreed by ASIC and NAB, a voluntary contribution of \$2,000,000 to, or as directed by, Financial Literacy Australia Limited towards the advancing of financial literacy in Australia, with a priority to issues relating to investment in financial markets;
 - (b) NAB undertakes to review by 28 February 2014:
 - (i) NAB's agreements with members of licensed Australian financial markets operated by the ASX, ASX24, Chi-X, APX, IMB, NSXA, SIM VSE and FBX ("**Relevant Markets**") to identify those under which it has been provided with direct market access to those markets; and
 - (ii) the regulatory risks of breaches of the Market Misconduct Provisions associated with the use of that direct market access having regard to the business activities for which direct market access under those agreements is utilised;
 - (c) in relation to the order and trading activities undertaken via the direct market access provided to NAB pursuant to the client agreements identified as referred to in paragraph 3.1(b), NAB undertakes to, by 30 May 2014:
 - (i) develop, document and implement monitoring and control systems and processes, in relation to order and trading activities undertaken via that direct market access, that are designed, by reference to the nature of, and risks associated with, the use of that direct market access, having regard to the business activities for which that order and trading activity is undertaken, to prevent and detect, to an extent reasonably possible, any breach of the Market Misconduct Provisions by NAB and those persons undertaking order and trading activity on behalf of NAB, ("**the Systems and Processes**"), and that include, if and as appropriate:
 - A. filters and filter parameters;
 - B. processes for authorisation, and recording, of changes to any appropriate filters or filter parameters;

- C. real-time or close to real-time monitoring of the order and trading activities, including the setting of system monitoring parameters (alerts) designed to detect potential misconduct; and
 - D. historic order and trading pattern review;
 - E. access to, and recording of, the information, data and/or calculations on which the order and trading activities are based;
 - F. security arrangements to monitor and prevent unauthorised access to the direct market access platform or to a computer or other device connecting to that direct market access and to enable NAB, at all times, to determine the origin of all order and trading messages, including the identity and capacity of the person placing the order;
 - G. testing of the Systems and Processes;
 - H. vetting, supervision, training and education of persons authorised by NAB to use the direct market access; and
 - I. procedures for making subsequent changes to the Systems and Processes;
- (ii) obtain a written assessment from one or more suitably qualified and experienced persons, that the Systems and Processes are effective, to an extent reasonably possible, in preventing and detecting any order or trading activity undertaken via the direct market access and in breach of the Market Misconduct Provisions;
- (iii) provide to ASIC a written certification that:
- A. confirms that NAB has performed the reviews referred to in paragraph 3.1(b) and developed, documented and implemented the Systems and Processes;
 - B. confirms that NAB believes the Systems and Processes are effective, to an extent reasonably possible, in preventing and detecting any order or trading activity undertaken via the direct market access and in breach of the Market Misconduct Provisions;
 - C. attaches a copy of any written assessment obtained by NAB, as referred to in paragraph 3.1(c)(ii);
 - D. confirms that NAB considers the person(s) from whom it has obtained the written assessment(s), as referred to in paragraph 3.1(c)(ii), to be suitably qualified and experienced in relation to those parts of the Systems and Processes assessed by the person(s); and

- E. is signed by each of the Head of Products and Markets and the Head of Risk at NAB, or, in the event of those positions being discontinued, by two members of senior management of NAB as agreed with ASIC;
- (d) NAB undertakes to perform the same type of review as referred to in paragraph 3.1(b) in respect of every agreement it proposes to enter into with a member of a Relevant Market for access to those markets between the date of this undertaking and 31 December 2016;
 - (e) Where there is a client agreement of the type referred to in paragraph 3.1(d), NAB undertakes not to utilise any direct market access facility pursuant to that agreement until it:
 - (i) develops, documents and implements monitoring and control systems and processes in relation to order and trading activities which are proposed to be undertaken via that direct market access on the same basis as described in paragraph 3.1(c) (“the **Future Systems and Processes**”);
 - (ii) obtains, from one or more suitably qualified and experienced person(s), a written assessment that the Future Systems and Processes are effective, to an extent reasonably possible, in preventing and detecting any conduct undertaken via the direct market access and in breach of the Market Misconduct Provisions; and
 - (iii) provides to ASIC a written certification that:
 - A. confirms that NAB has performed the reviews referred to in paragraph 3.1(d) and developed, documented and implemented the Future Systems and Processes;
 - B. confirms that NAB believes the Future Systems and Processes are effective, to an extent reasonably possible, in preventing and detecting any order or trading activity undertaken via the direct market access and in breach of the Market Misconduct Provisions;
 - C. attaches a copy of any written assessment obtained by NAB, as referred to in paragraph 3.1(e)(ii);
 - D. confirms that NAB considers the person(s) from whom it has obtained the written assessment(s), as referred to in paragraph 3.1(e)(ii), to be suitably qualified and experienced in relation to those parts of the Systems and Processes assessed by the person(s); and
 - E. is signed by each of the Head of Products and Markets and the Head of Risk at NAB, or, in the event of those positions being

discontinued, by two members of senior management of NAB as agreed with ASIC;

- (f) NAB undertakes to maintain the Systems and Processes and the Future Systems and Processes for at least three years from the date of this undertaking and that it will not make any material changes to them in that time, unless NAB:
- (i) ensures that an appropriately qualified person performs a review of the proposed material changes; and
 - (ii) obtains from that person a written assessment that the material changes will not reduce the effectiveness of the Systems and Processes or the Future Systems and Processes in preventing and detecting, to an extent reasonably possible, any conduct undertaken via the direct market access and in breach of the Market Misconduct Provisions;
- (g) NAB undertakes that:
- (i) unless, within the twelve months prior to an Annual Review Date, a material change review has been performed and an assessment obtained, as referred to in paragraph 3.1(f), NAB will, within sixty business days prior to each Annual Review Date:
 - A. ensure that an appropriately qualified person performs a review of the then current Systems and Processes and the Future Systems and Processes; and
 - B. obtain from that person a written assessment that the then current Systems and Processes and the Future Systems and Processes are effective, to an extent reasonably possible, in preventing and detecting any conduct undertaken via the direct market access and in breach of the Market Misconduct Provisions;
 - (ii) within ten business days of each Annual Review Date, NAB will give a written notice to ASIC that:
 - A. includes confirmation by NAB that nothing has come to its attention during the preceding twelve months that would indicate that the then current Systems and Processes and the Future Systems and Processes are not as effective, as reasonably possible, in preventing and detecting any conduct undertaken via the direct market access and in breach of the Market Misconduct Provisions;
 - B. is signed by each of the Head of Products and Markets and the Head of Risk at NAB, or, in the event of those positions being discontinued, by two members of senior management of NAB as agreed with ASIC; and

- C. attaches a copy of any written assessment obtained by NAB, as referred to in either paragraph 3.1(f)(ii) or 3.1(g)(i);
- (h) NAB undertakes that, to comply with those of its undertakings which require reviews and assessments to be conducted by suitably qualified and experienced persons, NAB will consider the following qualifications when engaging those persons to perform their reviews and assessments:
 - (i) relevant experience in broking operations, systems design, operational management and systems security;
 - (ii) familiarity with the Market Misconduct Provisions; and
 - (iii) relevant technical qualifications.
- (i) NAB undertakes it will provide to ASIC such reasonable assistance as ASIC may request in relation to any investigation and/or enforcement action ASIC may undertake against any other person in relation to the 18 October 2012 Order and Trading Activity and/or Previous Expiry Days' Order and Trading Activity;
- (j) NAB undertakes that it will pay the costs of its compliance with this enforceable undertaking including any fees or expenses payable to any person as referred to in paragraph 3.1(h); and
- (k) NAB will provide all documents and information requested by ASIC from time to time for the purpose of assessing its compliance with the terms of this undertaking.

D. ACKNOWLEDGEMENTS

4.1 NAB acknowledges that ASIC:

- (a) may issue a media release on execution of this undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this undertaking; and
- (c) will make this undertaking available for public inspection.

4.2 Further NAB acknowledges that:

- (a) ASIC's acceptance of this undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of ASIC's Concerns in this undertaking or arising from future conduct;
- (b) this undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this undertaking or arising from future conduct.

4.3 ASIC acknowledges that:

- (a) NAB terminated its contractual arrangements with the Contractor and discontinued the Arbitrage Trading in December 2012; and
- (b) NAB has co-operated with ASIC in its investigation and did not dispute any material facts.


4.4 NAB acknowledges that ASIC had reason to be concerned as to the alleged facts and has offered an enforceable undertaking in the terms of paragraphs 3.1(a) to 3.1(k) above.

4.5 NAB acknowledges that this undertaking has no operative force until accepted by ASIC, and NAB and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.

EXECUTED by National)
Australia Bank Limited (ACN 004)
044 937) in accordance with section)
127(1) of the Corporations Act 2001)
(Cwlth) by authority of its directors:)



.....)
Signature of director)

Paul J. Rizzo)
.....)
Name of director (block letters))


.....)
Signature of ~~director~~/company)
secretary*)
*delete whichever is not applicable)

LOUISE RUTH THOMSON)
.....)
Name of ~~director~~/company)
secretary* (block letters))
*delete whichever is not applicable)

Accepted by the Australian Securities and Investments Commission under s93AA
of the ASIC Act by its duly authorised delegate:


.....

Chris Savundra

Delegate of Australian Securities and Investments Commission

Date 23 DECEMBER 2013

