



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 161

Proposed ASIC market integrity rules for capital and related requirements: ASX, ASX 24 and Chi-X markets

June 2011

About this paper

This consultation paper sets out our proposals for ASIC market integrity rules for capital and related requirements for the ASX market, the ASX 24 market (formerly known as the Sydney Futures Exchange market) and the Chi-X market, as well as a proposed new rule for client money reconciliations for the ASX 24 market.

It explains our approach in developing the proposed rules and how we propose they will apply.

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.

Document history

This paper was issued on 3 June 2011 and is based on the Corporations Act as at 3 June 2011.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information.

We are also keen to hear from you on any other issues you consider important in relation to the proposed ASIC market integrity rules for capital, reporting and margins for the ASX, ASX 24 and Chi-X markets and for client money reconciliation for the ASX 24 market.

Your comments will help us develop our policy on the proposed ASIC market integrity rules. In particular, any information about compliance costs and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section C Regulatory and financial impact.

Making a submission

We will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any financial information) as confidential.

Comments should be sent by 30 June 2011 to:

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What will happen next?

Stage 1	3 June 2011	ASIC consultation paper released with proposed market integrity rules
Stage 2	30 June 2011	Comments due on the consultation paper
Stage 3	July 2011	ASIC market integrity rules finalised
Stage 4	1 August 2011	ASIC market integrity rules for the ASX and ASX 24 markets take effect
	31 October 2011	ASIC market integrity rules for the Chi-X market take effect
	1 January 2012	ASX 24 participants must comply with obligation to complete daily reconciliations of client money

Making of the proposed market integrity rules is subject to Ministerial consent under s798G of the Corporations Act.

A Background to the proposals

Key points

On 1 August 2010, ASIC took over general supervision of trading on Australia's domestic licensed financial markets, which included making market integrity rules for these markets.

At that time, we agreed with the ASX Group that it would continue to monitor and enforce the capital, reporting and margin requirements for non-clearing market participants on the ASX and ASX 24 markets for a period of 12 months.

We propose to insert new chapters relating to capital, reporting and margins into the existing market integrity rules for these markets, modelled on current requirements for capital, reporting and margins in the ASX and ASX 24 Operating Rules, to take effect from 1 August 2011.

We propose to insert new chapters relating to capital and reporting into the existing market integrity rules for the Chi-X market, modelled on the proposed market integrity rules for capital and reporting for the ASX market, to take effect from 31 October 2011. Participants of both the ASX and Chi-X markets will be able to satisfy the capital requirements of both markets with the one amount of capital.

Supervision of trading on Australia's financial markets

- 1 On 24 August 2009, the Australian Government announced its decision to transfer the responsibility for supervising Australia's domestic licensed financial markets from market operators to the Australian Securities and Investments Commission (ASIC). Subsequently, the *Corporations Amendment (Financial Market Supervision) Act 2010* (Financial Market Supervision Act) was enacted in March 2010 to transfer that responsibility.
- 2 The Financial Market Supervision Act, which commenced on 1 August 2010, inserted a new Pt 7.2A into the *Corporations Act 2001* (Corporations Act). From this date, ASIC assumed responsibility for supervising the trading activities and conduct of business by market participants in relation to domestic licensed markets (i.e. those operated by persons licensed under s795B(1) of the Corporations Act).
- 3 Part 7.2A of the Corporations Act established a new rule-making regime whereby ASIC is able to make market integrity rules dealing with activities and conduct in relation to licensed financial markets, including participants of the relevant market. We are responsible for supervising compliance with these rules. We are also responsible for granting waivers from the obligation to comply with a provision of the market integrity rules.
- 4 On 1 August 2010, we made market integrity rules for the ASX and ASX 24 markets: see ASIC Market Integrity Rules (ASX Market) 2010 and ASIC

Market Integrity Rules (ASX 24 Market) 2010. These rules were adapted from the long-standing ASX Market Rules (now superseded by the ASX Operating Rules) and the Sydney Futures Exchange Operating Rules (now superseded by the ASX 24 Operating Rules).

Note: For more information on these rules, see Regulatory Guide 214 *Guidance on ASIC market integrity rules for ASX and ASX 24 markets* (RG 214)

- 5 On 29 April 2011, we made market integrity rules for a new equity market (Chi-X market) to be operated by Chi-X Australia Pty Limited (Chi-X) that could start operating on 31 October 2011 at the earliest. Those rules were modelled on the market integrity rules for the ASX market. On 4 May 2011, the Minister for Financial Services and Superannuation granted Chi-X an Australian market licence to operate this new market. Under the licence, Chi-X is permitted to operate its market from 31 October 2011 at the earliest, subject to satisfying the relevant licence pre-conditions.

Note: For more information on these rules, see Regulatory Guide 224 *Guidance on ASIC market integrity rules for the Chi-X market* (RG 224).

Current requirements for capital, reporting and margins

- 6 When the ASIC Market Integrity Rules (ASX Market) and ASIC Market Integrity Rules (ASX 24 Market) were made, we agreed with ASX Limited, which operates the ASX market, and Australian Securities Exchange Limited, which operates the ASX 24 market (collectively, the ASX Group), that it would continue to monitor and enforce the pre-existing requirements for capital, reporting and margins in the pre-existing ASX Market Rules and SFE Operating Rules for a period of 12 months. This delay would give us time to prepare for the additional supervisory functions. The current requirements for capital, reporting and margins are contained in Section 8 ‘Transitional Provisions’ of the ASX and ASX 24 Operating Rules and are set to expire on 1 August 2011.
- 7 The current capital requirements in the ASX Operating Rules require non-clearing market participants to maintain a level of capital based on how much risk the market participant is exposed to at any given time: see Schedule 1A of those rules and the associated Annexures. Non-clearing market participants that trade only ASX market futures may elect to comply with Schedule 1B, which requires the participant to maintain a level of capital based on net tangible assets of at least \$1 million. ASX has advised us that no participants currently have elected to comply with Schedule 1B.
- 8 The current capital requirements in the ASX 24 Operating Rules are similar to the requirements in Schedule 1B of the ASX Operating Rules. Non-clearing market participants must maintain a level of capital based on net tangible assets of at least \$1 million.

- 9 The ASX and ASX 24 Operating Rules both require that non-clearing market participants submit returns to the ASX Group monthly, annually and on an ad hoc basis.
- 10 The ASX and ASX 24 Operating Rules both also set requirements for margin calls on futures contracts and for related issues (e.g. unilaterally closing out a futures contract where the client is in default or has died).
- 11 The current requirements for capital, reporting and margins in the ASX and ASX 24 Operating Rules operate in conjunction with Procedures and Appendices to Procedures. When we refer to these requirements, we are including any related Procedures and Appendices.
- 12 The existing market integrity rules for the Chi-X market do not have any capital, reporting or margin requirements, as they are modelled closely on the existing market integrity rules for the ASX market, which also do not have any capital, reporting or margin requirements.

Proposed market integrity rules

- 13 We propose to insert new chapters into the ASIC market integrity rules for the ASX and ASX 24 markets, setting requirements for capital, reporting and margins, to take effect from 1 August 2011.
- 14 We propose to model these market integrity rules on the current requirements for capital, reporting and margins in the ASX and ASX 24 Operating Rules. We have consulted with the ASX Group in drafting the proposed rules. Draft market integrity rules are attached to this consultation paper.
- 15 Following the consultation period, we will make final market integrity rules for the ASX and ASX 24 markets, taking into account any feedback we receive on the draft rules.
- 16 We also propose to make rules for the Chi-X market, modelled on our proposed rules for capital and reporting for the ASX market. The proposed rules for margins will not apply, as the Chi-X market is not licensed to trade derivatives, such as futures contracts, that require margins. We propose that the rules for the Chi-X market will be substantially similar to the proposed rules for the ASX market in Appendix 1. Before finalising the rules for the Chi-X market, we intend to have targeted consultation with relevant stakeholders. We intend that these rules will be made to take effect from 31 October 2011 to coincide with the earliest time that the Chi-X market could start operating.
- 17 We intend to ensure there is no unnecessary duplication in reporting requirements for Chi-X market participants that are also complying with the ASX market reporting requirements.

Other ASIC consultation papers on capital requirements

- 18 In September 2010, we released Consultation Paper 140 *Responsible entities: Financial requirements* (CP 140), which proposed increasing the capital requirements in Regulatory Guide 166 *Licensing: Financial requirements* (RG 166) for investment managers. In May 2011, we released Consultation Paper 156 *Retail OTC derivative issuers: Financial requirements* (CP 156), which proposed increasing the capital requirements in RG 166 for OTC derivative issuers. We do not see these proposals having any significant impact on the proposals in this consultation paper.

Scope of this consultation paper

- 19 The consultation paper relates only to proposed market integrity rules for the ASX, ASX 24 and Chi-X markets. It does not apply to other financial markets operating in Australia.
- 20 While the existing market integrity rules for the ASX, ASX 24 and Chi-X markets generally apply to both clearing and non-clearing market participants, the proposed rules for capital and reporting will only apply to non-clearing market participants. A market participant that is also a clearing participant will need to continue to comply with the relevant clearing facility's capital and reporting requirements. The proposed rules for margins and client money reconciliations will apply to both clearing and non-clearing market participants.
- 21 None of the proposed rules will apply to principal traders (i.e. participants that only trade on their own behalf).

B Proposed market integrity rules

Key points

We propose to insert new chapters into the ASIC market integrity rules for the ASX and ASX 24 markets, setting requirements for capital, reporting and margins, to take effect from 1 August 2011. We propose to model these rules on the current requirements in the ASX and ASX 24 Operating Rules. We may review these rules at a later date.

The proposed rules include maximum penalties for breaches, based on penalties applied by the ASX Group in the current ASX and ASX 24 Operating Rules.

We propose to interpret the market integrity rules taking into account the ASX Group's existing *Capital Liquidity Handbook* and *Capital Requirements Guidance*.

We propose to transfer across all relevant current waivers granted by the ASX Group to market participants.

We propose to make market integrity rules for capital and reporting (but not margins) for the Chi-X market, modelled on our proposed rules for capital and reporting for the ASX market, with only the minimum changes necessary to tailor them for the Chi-X market, to take effect from 31 October 2011. We intend to ensure there is no unnecessary duplication with the ASX market reporting requirements.

We propose to take a similar approach for the Chi-X market in setting maximum penalties, interpreting the proposed rules, granting waivers and varying AFS licences, as we propose to take for the ASX market.

We propose to insert into the existing market integrity rules for the ASX 24 market, a new obligation for participants to complete daily reconciliations of client money, to take effect from 1 January 2012.

We propose to reduce the deadline for submitting ASX 24 monthly returns to 10 business days after the end of each month, to take effect from 1 August 2011.

Transfer of rules for ASX and ASX 24 markets

Proposal

- B1** We propose to insert new chapters relating to capital, reporting and margins into ASIC Market Integrity Rules (ASX Market) and ASIC Market Integrity Rules (ASX 24 Market), to take effect from 1 August 2011: see Table 1 and Appendices 1 and 2 of this consultation paper.

Your feedback

- B1Q1 Do you agree with the approach we have taken in the proposed market integrity rules for capital, reporting and margins? If not, why not.
- B1Q2 Are there any current requirements for capital, reporting and margins in the ASX or ASX 24 Operating Rules you think should or should not be included in the proposed rules? If so, please provide details.
- B1Q3 Do you have any technical comments on the proposed rules? If so, please provide details.

Explanation

22 The new chapters we propose to insert into the existing ASIC market integrity rules for the ASX and ASX 24 markets (see Table 1) will retain the current arrangements for capital, reporting and margins, set out in Section 8 ‘Transitional Provisions’ of the current ASX and ASX 24 Operating Rules.

Table 1: Proposed new chapters in ASIC market integrity rules

ASIC Market Integrity Rules (ASX Market)	ASIC Market Integrity Rules (ASX 24 Market)
Ch 8: Capital Requirements	Ch 5: Capital Requirements
Ch 9: Accounts and Audit	Ch 6: Accounts and Audit
Ch 10: Futures Market Transactions	Ch 7: Margins and Right of Close Out

23 The ASX Operating Rules currently include Schedule 1A (which has five Annexures) and Schedule 1B. These two schedules will set out the details of the ASX market capital requirements. Our proposed market integrity rules for capital retain this structure.

24 Our proposed rules for the ASX and ASX 24 markets are in Appendices 1 and 2 of this consultation paper, showing marked-up changes to the current ASX and ASX 24 Operating Rules.

25 We have intentionally tried to retain the structure and drafting used in the current capital, reporting and margin requirements in the ASX and ASX 24 Operating Rules to ensure market certainty and to minimise the impact on participants. However, we have had to make a number of technical changes to ensure the proposed rules reflect ASIC supervision rather than ASX Group supervision. These technical changes will have no significant impact on market participants.

Technical changes

- 26 Section 8 ‘Transitional Provisions’ of both the ASX and ASX 24 Operating Rules includes transitional provisions relating to the transfer from the pre-existing ASX Market Rules and SFE Operating Rules to the current ASX and ASX 24 Operating Rules. We have not adopted these provisions as they will not be relevant to the proposed rules.
- 27 We have incorporated the relevant Procedures to the ASX and ASX Operating Rules directly into the proposed market integrity rules to simplify the structure and readability of the rules, without changing the substance of those Procedures.
- 28 We intend to require participants to submit the same information as currently required by the ASX and ASX 24 market forms and returns, and in the same format and with the same timing (apart from altered timing for ASX 24 market monthly returns, as detailed in proposal B7 below).
- 29 We propose that participants will continue to lodge returns using the ASX Group’s electronic returns lodgement portal for a period after 1 August 2011, with the ASX Group forwarding the returns to us. We are in discussions with the ASX Group about these arrangements. We intend to consult with participants on a permanent lodgement process at a later stage.
- 30 The ASX Group provides guidance on the current capital requirements for the ASX market in its *Capital Liquidity Handbook*. This handbook also prescribes additional detail supplementing the ASX Operating Rules. We have inserted this additional detail directly into the proposed market integrity rules.
- 31 We have removed some discretions, which have never been used in any significant way by the ASX Group and which we do not anticipate needing to use. We have removed other discretions where we instead intend to use our general discretionary waiver powers in the existing ASIC market integrity rules.
- 32 We have redrafted those margin requirements that impose obligations on clients in their interaction with market participants, without changing the substance of the requirement. We have done this because the Corporations Act allows us to impose obligations, under ASIC market integrity rules, on market participants only.
- 33 We propose to make minor, technical amendments to the Australian financial services (AFS) licences of relevant participants to ensure that the general financial requirements in RG 166 do not apply, where the participant complies with our proposed market integrity rules. We intend to work with participants, where required, to implement these technical amendments.

No transition period

- 34 As we propose to adopt the ASX and ASX 24 Operating Rules for capital, reporting and margins without any significant changes, we do not propose to have a transition period after 1 August 2011. However, if a market participant were to have difficulty implementing the proposed market integrity rules, we have the power to grant a waiver in appropriate situations.

Future review

- 35 After we have supervised capital, reporting and margins for a period, we may review the regime and its specific rules to determine whether we think any changes might be needed. We would consult further with industry at that stage.

Proposed penalties for ASX and ASX 24 markets

Proposal

- B2 We propose to set maximum penalty amounts for breaches of the proposed market integrity rules as set out in Appendices 1 and 2 of this consultation paper.

Your feedback

- B2Q1 Are the proposed maximum penalty amounts appropriate or should they be increased or decreased? Please provide specific examples and reasons.

Explanation

- 36 The Corporations Act allows ASIC to set maximum penalty amounts of up to \$1,000,000 for market integrity rules. The existing ASIC market integrity rules for the ASX and ASX 24 markets set maximum penalty amounts at \$20,000, \$100,000 or \$1,000,000.
- 37 Our proposed market integrity rules for capital, reporting and margins follow this approach, also setting maximum penalty amounts at \$20,000, \$100,000 or \$1,000,000.
- 38 In proposing each maximum penalty amount, we have taken into account the ASX Enforcement and Appeals Rulebook, along with decisions of the ASX Group's past and present review bodies, including the ASX Disciplinary Tribunal, for breaches of the equivalent requirements for capital, reporting and margins in the ASX and ASX 24 Operating Rules (and preceding rules).

- 39 Where there has been no relevant decision, we have proposed a maximum penalty amount at a level we think is appropriate to the rule's importance in protecting the integrity of the market and in protecting investors.

Status of current market guidance materials for ASX and ASX 24 markets

Proposal

B3 We propose:

- (a) in relation to the ASX market, to take into account the ASX Group's guidance materials—the *Capital Liquidity Handbook* and the *Capital Requirements Guidance*—when interpreting the proposed market integrity rules for this market;
- (b) in relation to the ASX 24 market, to not take into account any ASX Group guidance materials when interpreting the proposed market integrity rules for this market (as all relevant guidance will be reflected in the market integrity rules).

Your feedback

- B3Q1 Are there any other existing ASX Group guidance materials that you think we should take into account for the ASX or ASX 24 markets?
- B3Q2 Do you have any other practical comments on how we should interpret the proposed rules? If so, please provide details.

Explanation

- 40 The current requirements for capital in the ASX Operating Rules operate in conjunction with guidance materials issued by the ASX Group, in particular, the *Capital Liquidity Handbook* and the *Capital Requirements Guidance*.
- 41 We intend to take into account the *Capital Liquidity Handbook* and the *Capital Requirements Guidance*, when interpreting the proposed market integrity rules for the ASX market, to ensure a smooth transition on 1 August 2011.
- 42 We anticipate that the ASX Group will continue using these guidance materials after 1 August 2011, as these materials also give guidance to clearing participants, and that the ASX Group may want to amend them from time to time after 1 August 2011. Accordingly, we intend to retain copies of these guidance materials, as they are on 1 August 2011, on our website for reference purposes.
- 43 After a period, we may consider reviewing our policy position on these guidance materials in light of changes in the market or other factors. If so, we will consult further with industry at that stage.

- 44 We are not aware of any relevant guidance materials for the ASX 24 Operating Rules, other than the Procedures and Annexures (and the ASX Group's guidance materials detailing these Procedures and Annexures). As stated above, we propose to incorporate the Procedures and Annexures directly into the market integrity rules for this market. Thus, we do not intend to build this guidance into our regulatory guide.

Status of current waivers for ASX and ASX 24 markets

Proposal

- B4** We propose to grant waivers from the proposed market integrity rules, similar to those currently granted to participants by the ASX Group from capital, reporting and margin requirements in the ASX and ASX 24 Operating Rules.

Your feedback

- B4Q1 Do you agree with our proposed approach? If not, why not.
 B4Q2 Do you have any waivers that you want us to transfer across?
 B4Q3 What technical or practical problems might this involve?

Explanation

- 45 Where the ASX Group has granted a waiver to a participant from the capital, reporting and margin requirements in the ASX and ASX 24 Operating Rules and that waiver remains current as at 1 August 2011, we intend to grant a similar waiver to the participant from the proposed market integrity rules.

Proposed capital and reporting rules for Chi-X market

Proposal

- B5** For the Chi-X market, we propose to:
- (a) make market integrity rules for capital and reporting (but not margins), modelled on our proposed market integrity rules for the ASX market for capital and reporting, with only the minimum changes necessary to tailor them for the Chi-X market, to take effect from 31 October 2011 (see proposal B1);
 - (b) take a similar approach in setting maximum penalties, interpreting the proposed rules, granting waivers and varying AFS licences, as we propose to take for the ASX market (see proposals B2–B4).

Your feedback

- B5Q1 Do you agree with our proposed approach? If not, why not?
- B5Q2 Do you agree with our proposal to take a similar approach in setting maximum penalties, interpreting the proposed rules, granting waivers and varying AFS licences, as we propose to take for the ASX market? If not, why not?
- B5Q3 What other technical or practical problems do you think there might be?

Explanation

- 46 The Chi-X market is similar to the ASX market in that it is licensed to trade securities and managed investment products. To ensure a level playing field, between these two markets for these products, we propose to make market integrity rules for capital and reporting that are modelled as closely as possible on the proposed market integrity rules for the ASX market, to take effect from 31 October 2011, the potential start date for the Chi-X market.
- 47 As with the proposed rules for capital and reporting for the ASX market, the proposed rules for capital and reporting for the Chi-X market will only apply to non-clearing market participants. Clearing market participants will need to continue to comply with the capital and reporting requirements of the relevant clearing facility (generally ASX Clear Pty Limited).
- 48 However, unlike the ASX market, the Chi-X market is not also licensed to trade derivatives, such as futures contracts, which require margins. Accordingly, we do not propose to make market integrity rules for margins for the Chi-X market, given they will not be necessary.
- 49 In making the rules for capital and reporting for the Chi-X market, we intend to make only the minimum changes necessary from the market integrity rules for the ASX market.
- 50 A market participant of both the ASX and Chi-X markets will be able to comply with both the ASX and Chi-X capital requirements by having the one amount of capital. Further, we propose that such a participant will be taken to have met its reporting requirements for both markets by reporting to the ASX Group under an arrangement between ASIC and the ASX Group: see paragraph 29. While a breach of the capital or reporting requirements for a participant of both markets would be a breach of both sets of rules, we intend to approach such situations in a manner consistent with that set out in our Report 238 *Response to submissions on CP 148 Proposed market integrity rules: Chi-X market* (REP 238) at p. 10 when making decisions under the disciplinary framework.

- 51 We propose to impose maximum penalties for breaches of the proposed rules for capital and reporting for the Chi-X market similar to those for the ASX market.
- 52 We propose to take into account the ASX Group’s guidance materials—the *Capital Liquidity Handbook* and the *Capital Requirements Guidance*—to the extent they may be relevant, when interpreting the proposed rules for the Chi-X market.
- 53 We propose to grant waivers from the proposed rules for the Chi-X market similar to waivers we grant for the proposed rules for the ASX market, where we think it is appropriate. We intend to consult with market participants, in the near future, on waivers.
- 54 We propose to ensure that the AFS licences of Chi-X market participants do not require them to comply with the general capital requirements in RG 166, where they comply with our proposed market integrity rules for the Chi-X market. Where participants already have an AFS licence, we intend to work with them, where necessary, to ensure that their AFS licences reflect this.
- 55 After we have supervised the Chi-X market for a period, we may review the proposed capital and reporting regime, and its specific rules, when we review the proposed regime for the ASX market, to determine whether we think changes might be needed. We would consult further with industry at that stage.

Obligation for ASX 24 participants to reconcile client money daily

Proposal

- B6** We propose to insert a new rule into the ASIC Market Integrity Rules (ASX 24 Market) to require all ASX 24 market participants to complete daily reconciliations of client money, to take effect from 1 January 2012.

Your feedback

- B6Q1 Do you agree with our proposal? If not, why not?

Explanation

- 56 We propose to introduce a requirement that all ASX 24 market participants (i.e. clearing and non-clearing market participants) complete daily reconciliations of client money. While the existing ASIC Market Integrity Rules (ASX Market) include a requirement for daily reconciliations (Rule 3.5.8), there is no similar requirement in the ASIC Market Integrity Rules (ASX 24 Market). There is, however, a requirement to lodge a monthly reconciliation report under the ASX 24 Operating Rules.

- 57 We believe that daily reconciliations should normally form part of a market participant's proper compliance process for protecting client money. In an insolvency situation, client money can be at risk if it is not properly segregated. In March 2010, we released Consultation Paper 152 *ASIC's conversion of ASX and SFE guidance: General operational obligations* (CP 152), in which we proposed daily client money reconciliations, as a matter of good practice for ASX 24 participants (proposal C4). An express requirement would also further harmonise the obligations of the participants of the two markets.
- 58 We propose to insert an express requirement for daily reconciliations into the existing ASIC Market Integrity Rules (ASX 24 Market): see proposed Rule 2.3. We propose that the new rule will commence on 1 January 2012, to give participants time to prepare for this new requirement.

Change to deadline for lodging ASX 24 capital returns

Proposal

- B7 We propose to reduce the lodging time for ASX 24 market monthly capital returns from one month after the end of each month to 10 business days after the end of each month, to take effect from 1 August 2011.

Your feedback

- B7Q1 Do you agree with our proposal? If not, why not?

Explanation

- 59 The purpose of our proposal to reduce the lodging time for ASX 24 market monthly capital returns is to ensure monthly reports are more up-to-date and to harmonise this deadline with the ASX market's current 10-business day deadline.

C Regulatory and financial impact

60 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:

- (a) protecting the integrity of the Australian markets; and
- (b) protecting investors.

61 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:

- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;
- (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
- (c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).

62 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.

63 To ensure that we are in a position to properly complete any required RIS, we ask you to provide us with as much information as you can about our proposals or any alternative approaches, including:

- (a) the likely compliance costs;
- (b) the likely effect on competition; and
- (c) other impacts, costs and benefits.

See 'The consultation process' p. 4.

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 Note: This is a definition contained in s761A of the Corporations Act.
ASIC	Australian Securities and Investments Commission
ASIC Market Integrity Rules (ASX 24 Market)	ASIC Market Integrity Rules (ASX 24 Market) 2010—rules made by ASIC under s798G of the Corporations Act for trading on the ASX market
ASIC Market Integrity Rules (ASX Market)	ASIC Market Integrity Rules (ASX Market) 2010—rules made by ASIC under s798G of the Corporations Act for trading on the ASX 24 market
ASX 24 market	The exchange market, formerly known as the Sydney Futures Exchange market, operated by Australian Securities Exchange Limited
ASX 24 Operating Rules	ASX Limited's current operating rules, which replaced the pre-existing SFE Operating Rules
ASX Group	ASX Limited and Australian Securities Exchange Limited
ASX Limited	The market licensee that operates the exchange market known as the ASX market
ASX market	The exchange market operated by ASX Limited
ASX Market Rules	The ASX market's previous operating rules, now replaced by the ASX Operating Rules
ASX Operating Rules	ASX Limited's current operating rules, which replaced the pre-existing ASX Market Rules
Australian domestic licensed financial market	A financial market licensed under s795B(1) of the Corporations Act
Australian market licence	An Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
Australian Securities Exchange Limited	The market licensee that operates the exchange market known as the ASX 24 market
Chi-X	Chi-X Australia Pty Limited

Term	Meaning in this document
Chi-X market	The market operated by Chi-X
Corporations Act	<i>Corporations Act 2001</i> (Cth) including regulations made for the purposes of the Act
CP 140 (for example)	An ASIC consultation paper (in this example numbered 140)
Financial Market Supervision Act	<i>Corporations Amendment (Financial Market Supervision) Act 2010</i>
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
market operator	A holder of an Australian market licence that operates a financial market on which financial products are traded
market participant	An entity that is a participant of a financial market on which financial products are traded
Pt 7.2A (for example)	A part of the Corporations Act (in this example numbered 7.2A), unless otherwise specified
RG 214 (for example)	An ASIC regulatory guide (in this example numbered 214)
s798G (for example)	A section of the Corporations Act (in this example, numbered 798G)
SFE Operating Rules	The ASX 24 market's previous operating rules, now replaced by the ASX 24 Operating Rules

List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to insert new chapters relating to capital, reporting and margins into ASIC Market Integrity Rules (ASX Market) and ASIC Market Integrity Rules (ASX 24 Market), to take effect from 1 August 2011: see Table 1 and Appendices 1 and 2 of this consultation paper.</p>	<p>B1Q1 Do you agree with the approach we have taken in the proposed market integrity rules for capital, reporting and margins? If not, why not.</p> <p>B1Q2 Are there any current requirements for capital, reporting and margins in the ASX or ASX 24 Operating Rules you think should or should not be included in the proposed rules? If so, please provide details.</p> <p>B1Q3 Do you have any technical comments on the proposed rules? If so, please provide details.</p>
<p>B2 We propose to set maximum penalty amounts for breaches of the proposed market integrity rules as set out in Appendices 1 and 2 of this consultation paper.</p>	<p>B2Q1 Are the proposed maximum penalty amounts appropriate or should they be increased or decreased? Please provide specific examples and reasons.</p>
<p>B3 We propose:</p> <p>(a) in relation to the ASX market, to take into account the ASX Group's guidance materials—the <i>Capital Liquidity Handbook</i> and the <i>Capital Requirements Guidance</i>—when interpreting the proposed market integrity rules for this market;</p> <p>(b) in relation to the ASX 24 market, to not take into account any ASX Group guidance materials when interpreting the proposed market integrity rules for this market (as all relevant guidance will be reflected in the market integrity rules).</p>	<p>B3Q1 Are there any other existing ASX Group guidance materials that you think we should take into account for the ASX or ASX 24 markets?</p> <p>B3Q2 Do you have any other practical comments on how we should interpret the proposed rules? If so, please provide details.</p>
<p>B4 We propose to grant waivers from the proposed market integrity rules, similar to those currently granted to participants by the ASX Group from capital, reporting and margin requirements in the ASX and ASX 24 Operating Rules.</p>	<p>B4Q1 Do you agree with our proposed approach? If not, why not.</p> <p>B4Q2 Do you have any waivers that you want us to transfer across?</p> <p>B4Q3 What technical or practical problems might this involve?</p>

Proposal	Your feedback
<p>B5 For the Chi-X market, we propose to:</p> <p>(a) make market integrity rules for capital and reporting (but not margins), modelled on our proposed market integrity rules for the ASX market for capital and reporting, with only the minimum changes necessary to tailor them for the Chi-X market, to take effect from 31 October 2011 (see proposal B1);</p> <p>(b) take a similar approach in setting maximum penalties, interpreting the proposed rules, granting waivers and varying AFS licences, as we propose to take for the ASX market (see proposals B2–B4).</p>	<p>B5Q1 Do you agree with our proposed approach? If not, why not?</p> <p>B5Q2 Do you agree with our proposal to take a similar approach in setting maximum penalties, interpreting the proposed rules, granting waivers and varying AFS licences, as we propose to take for the ASX market? If not, why not?</p> <p>B5Q3 What other technical or practical problems do you think there might be?</p>
<p>B6 We propose to insert a new rule into the ASIC Market Integrity Rules (ASX 24 Market) that requires all ASX 24 market participants to complete daily reconciliations of client money, to take effect from 1 January 2012.</p>	<p>B6Q1 Do you agree with our proposal? If not, why not?</p>
<p>B7 We propose to reduce the lodging time for ASX 24 market monthly capital returns from one month after the end of each month to 10 business days after the end of each month, to take effect from 1 August 2011.</p>	<p>B7Q1 Do you agree with our proposal? If not, why not?</p>

Appendix 1 to CP 161: Proposed ASIC market integrity rules: Capital, reporting and margins (ASX market)

This appendix presents ASIC's proposed market integrity rules for the ASX market as a marked-up version of the current ASX Operating Rules.

[Download Appendix 1](#)

For more information, including the related ASIC advisory, go to www.asic.gov.au/markets.

Appendix 2 to CP 161: Proposed ASIC market integrity rules: Capital, reporting and margins (ASX 24 market)

This appendix presents ASIC's proposed market integrity rules for the ASX 24 market as a marked-up version of the current ASX 24 Operating Rules.

[Download Appendix 2](#)

For more information, including the related ASIC advisory, go to www.asic.gov.au/markets.