



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 179

Australian market structure: Draft market integrity rules and guidance

June 2012

About this paper

This paper seeks comments on draft market integrity rules and guidance following on from Consultation Paper 168 *Australian equity market structure: Further proposals* (CP 168), including proposed consequential amendments stemming from CP 168.

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 28 June 2012 and is based on the Corporations Act as at the date.

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;
- the likely effect on competition; 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.

Your comments will help us develop our policy on Australian market structure. In particular, any information about compliance costs, impacts on competition 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 **6 August 2012** to:

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 Australian Securities and Investments Commission
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 Sydney NSW 2000
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What will happen next?

Stage 1	28 June 2012	ASIC consultation paper released
Stage 2	6 August 2012	Comments due on the consultation paper
Stage 3	October 2012	Rules and regulatory guide released

A Overview

Key points

As a result of feedback we received to CP 168, we have further refined our proposals on draft market integrity rules and guidance relating to wider market structure issues for competition in trading services.

We intend to make new or amended market integrity rules for some of the issues we consulted on in CP 168: see Attachment 1 to this paper.

We intend to issue new or amended regulatory guidance relating to these and other issues from CP 168: see Attachments 2 and 3 to this paper.

We are also seeking feedback on additional consequential amendments to the market integrity rules: see Section B of this paper.

Background

- 1 In November 2010, we released Consultation Paper 145 *Australian equity market structure: Proposals* (CP 145) to consult on market integrity rules we considered necessary to address regulatory issues arising from recent developments in Australian equity markets, and to facilitate the introduction of competition in trading services in equity market products.
- 2 In April 2011, we made the ASIC Market Integrity Rules (Competition) 2011, providing a robust, minimum regulatory framework for competition between public exchanges in equity market products. At that time, we also made market integrity rules dealing with the activities on and conduct of the licensed market operated by Chi-X Australia Pty Ltd (Chi-X). We deferred rule making on the wider market structure proposals we consulted on in CP 145 to facilitate the early introduction of competition and to provide more time to consider some of the proposals.

Note: In this document references to ‘ASIC Market Integrity Rules (Competition)’, or to a chapter, part or rule followed by ‘(Competition)’, refer to the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011.
- 3 In October 2011, we released Consultation Paper 168 *Australian equity market structure: Further proposals* (CP 168) with our refined proposals on wider market structure issues. Consultation on CP 168 closed on 10 February 2012.
- 4 On 3 April 2012, we issued Media Release (12-61MR) *ASIC provides direction on market structure reforms*, setting out a general overview of the feedback received on CP 168 and our proposed direction and timetable for implementing those proposals.

- 5 The purpose of this consultation paper is to seek feedback on additional consequential amendments to the market integrity rules and guidance, which have been informed by feedback to CP 168.

Feedback received on CP 168

- 6 Our formal feedback report on CP 168 is Report 290 *Response to submissions on CP 168 Australian equity market structure: Further proposals* (REP 290).
- 7 In summary, respondents were generally appreciative of our holistic approach to consulting on the market structure framework. The following general views were expressed:
- (a) there is a preference for guidance rather than making new rules where possible;
 - (b) the proposed timeframes for the introduction of new rules were too tight when the entire suite of proposals was taken into account;
 - (c) competition between exchange markets should be allowed to develop further before introducing further regulatory change;
 - (d) the proposals would impose a significant cost burden in an environment where there is already considerable financial pressure on industry; and
 - (e) there should be greater consideration of the impact of the proposals on the competitiveness of the Australian market internationally and further analysis demonstrating that the benefits of the proposals outweigh the costs.
- 8 We have taken these comments into account in the draft market integrity rules and guidance attached to this paper.
- 9 Some respondents continued to express caution about the pace of change in the Australian market and, in particular, the impact of high-frequency trading and dark pools on the fair and efficient functioning of the market. We are very aware of the changes occurring in the Australian market and abroad, particularly the increasingly automated nature of trading and the proliferation of dark pools. We intend to do further work on high-frequency trading and dark pools.
- 10 This work will include:
- (a) continuing to analyse the prevalence and impact of dark pools and high-frequency trading in the Australian market and abroad;
 - (b) reviewing the nature of trading, monitoring, handling of conflicts of interest and misconduct in dark pools;

- (c) reviewing the nature of trading by high-frequency traders, including impacts on orderliness of trading in dark pools and on markets, and possible misconduct;
- (d) reviewing the existing regulatory framework and considering what changes might be required, including relevant ‘market operator-like’ obligations applying to broker crossing systems (e.g. transparency of access and processes, management of conflicts of interest and appropriate supervision); and
- (e) identifying any existing conduct that we consider may warrant a regulatory response.

We expect to report on our findings, and any regulatory response, in the fourth quarter of 2012.

Our intended approach

- 11 We are proceeding as foreshadowed in our media release of 3 April 2012: see 12-61MR. Appendix 2 of REP 290 compares the proposals in CP 168 with our intended approach. It sets out the relevant draft market integrity rules and guidance, proposed implementation timeframes, and the products the rules would apply to. We have not restated our intended approach as proposals in this consultation paper. This paper focuses primarily on proposed consequential amendments stemming from CP 168: see Section B of this paper.
- 12 For a summary overview of our intended approach by topic (including the proposed consequential amendments) with details of the relevant feedback and/or consultation and draft market integrity rules and guidance, see Table 1. On automated trading, we are consolidating guidance on the proposed new market integrity rules with updated guidance currently in ASX guidance notes. We intend to release draft market integrity rules and consolidated guidance on automated trading controls early in the third quarter of 2012.
- 13 For a high-level summary of what we understand will be the potential impacts of the draft market integrity rules and guidance on stakeholders’ systems and/or business models, see Appendix 3 of REP 290. We would appreciate your comments on the issues discussed in that appendix as well as the points raised in paragraph 40 of this paper under ‘Regulatory and financial impact’.

Draft market integrity rules

Proposal

- A1 We propose to make a number of new or amended market integrity rules. These rules reflect our policy position after the CP 168 consultation process (i.e. our intended approach as summarised in Appendix 2 of REP 290 and the proposed consequential amendments in Section B of this paper). The draft new and amended market integrity rules are in Attachment 1 of this paper. Amendments to existing rules are marked to help identify the changes. See Section B and Attachment 1 to this paper.

Your feedback

- A1Q1 Do you have any comments on the draft new and amended market integrity rules in Attachment 1? See also Section B of this paper for specific questions on the proposed consequential amendments.
- A1Q2 Do you have any comments on the proposed penalties for these rules?

Draft guidance

Proposal

- A2 We propose to issue new or amended guidance that reflects our policy position after the CP 168 consultation process (i.e. our intended approach as summarised in Appendix 2 of REP 290 and the proposed consequential amendments in Section B of this paper). This guidance has two elements:
- (a) *Regulatory Guide 223 Guidance on ASIC market integrity rules for competition in exchange markets (RG 223)*: We have drafted amendments to RG 223 to give guidance on the draft new or amended market integrity rules for extreme price movements, enhanced data for market surveillance, pre-trade transparency and price formation, and post-trade transparency. There are a number of additional minor updates to reflect that competition has commenced. A draft updated version of RG 223 is in Attachment 2 to this paper. Amendments to existing guidance are marked to help identify the changes we are consulting on.
 - (b) *Addendum to Regulatory Guide 172 Australian market licences: Australian operators (RG 172)*: We have drafted an addendum to RG 172 on systems and controls for holders of an Australian market licence under s795B(1) (market licensees). The draft addendum is in Attachment 3 to this paper.

Where relevant, we have incorporated into these guides the substance of existing competition FAQs on our website.

See draft updated RG 223 in Attachment 2 and the draft addendum to RG 172 in Attachment 3 to this paper.

Your feedback

- A2Q1 Do you have any comments on our guidance in draft updated RG 223 or the draft addendum to RG 172?

Table 1: Summary overview of draft market integrity rules and guidance

Topic	Relevant feedback and/or consultation	Draft market integrity rule(s)	Draft guidance
Automated trading	Section B of REP 290	Expected to be published in early third quarter 2012	Expected to be published in early third quarter 2012 For our draft guidance on systems and controls for domestic market licensees, see the draft addendum to RG 172.
Extreme price movements	Section C of REP 290 and Section B of this paper	Chapter 2 of ASIC Market Integrity Rules (Competition)	Section B of draft updated RG 223
Enhanced data for market surveillance	Section D of REP 290	Chapter 5A of ASIC Market Integrity Rules (Competition)	Section H of draft updated RG 223
Best execution	Section E of REP 290	No change	Section C of draft updated RG 223 (minor edits)
Pre-trade transparency and price formation (including consequential amendments to rules on crossings during takeover bids and on-market buy-backs)	Section F of REP 290 and Section B of this paper	Chapter 4 of ASIC Market Integrity Rules (Competition) Chapter 6 of ASIC Market Integrity Rules (ASX Market) 2010 Chapter 6 of ASIC Market Integrity Rules (Chi-X Australia Market) 2011	Section D of draft updated RG 223
Post-trade transparency	Section B of this paper	Chapter 5 of ASIC Market Integrity Rules (Competition)	Section F of draft updated RG 223

B Proposed consequential amendments to the market integrity rules

Key points

As a result of the feedback we received to CP 168 and our experience with existing market integrity rules, we propose to make a number of consequential amendments to these rules.

Broadly, the proposed amendments relate to:

- extreme price movements;
- crossings during takeover bids and on-market buy-backs; and
- post-trade transparency, to more accurately reflect the intent of the rules and the validation of off-order book transactions by market operators.

We seek your feedback on the proposed consequential amendments.

- 14 Based on our consultation in CP 168, we propose to make substantive amendments to the market integrity rules on extreme price movements, enhanced data for market surveillance, and pre-trade transparency and price formation: see Appendix 2 of REP 290.
- 15 In addition, we propose to make additional consequential amendments stemming from our refined proposals after the CP 168 consultation process and our experience with existing market integrity rules.
- 16 We consider it is appropriate to make these amendments at this time. This is because, apart from the proposed changes to rules on crossings during takeover bids and on-market buy-backs, they are consequential amendments either based on proposals we have already consulted on, or where we have identified that an existing rule may not be fully achieving its intended regulatory objective.
- 17 We believe the amendments to rules on crossings during takeover bids and on-market buy-backs are necessary to ensure that transactions in securities that are subject to takeover bids, and on-market buy-backs, are subject to appropriate public price formation.

Extreme price movements

Anomalous order threshold

Proposal

B1 We propose to amend Part 2.1 (Competition)—order entry controls for anomalous orders—to apply only during continuous trading times.

See draft Rule 2.1.3 (Competition).

Your feedback

B1Q1 Do you have any comments on this proposal?

Rationale

18 It was our intent that the thresholds would apply only during continuous trading times and not at other times (e.g. not during auctions and out of normal trading hours) when order entry is not expected to lead to extreme price movements.

Definition of ‘anomalous order’

Proposal

B2 We propose to amend the definition of ‘anomalous order’ in Rule 1.4.3 (Competition) to clarify that an anomalous order means a *buy order* for which the price is above the maximum, or a *sell order* which is below the minimum anomalous order threshold for the relevant equity market product or ASX SPI 200 Index Future (ASX SPI 200 Future).

See the definition of ‘anomalous order’ in draft Rule 1.4.3 (Competition).

Your feedback

B2Q1 Do you have any comments on this proposal?

Rationale

19 A market operator must have adequate controls to prevent anomalous orders from entering its market under Rule 2.1.3 (Competition). The proposed amendment clarifies the intent of the rule.

Extreme trade range

Proposal

B3 We propose to amend Part 2.2 (Competition)—extreme cancellation range—in the following ways:

- (a) this part will be known as ‘extreme trade range’ rather than ‘extreme cancellation range’;

- (b) for reference prices of:
- (i) 0.1–9.9c, the extreme trade range will be >5c rather than ≥ 21 price steps;
 - (ii) 10–99.5c, the range will be >30c rather than ≥ 61 price steps;
 - (iii) 100–199.5c, the range will be >50c rather than ≥ 101 price steps;
 - (iv) 200–499c, the range will be >50% rather than $\geq 50.1\%$;
 - (v) 500–699c, the range will be >40% rather than $\geq 40.1\%$;
 - (vi) 700–999c, the range will be >35% rather than $\geq 35.1\%$;
 - (vii) 1000–1999c, the range will be >30% rather than $\geq 30.1\%$;
 - (viii) 2000–4999c, the range will be >25% rather than $\geq 25.1\%$; and
 - (ix) $\geq 5000c$, the range will be >20% rather than $\geq 20.1\%$.
- (c) the extreme trade range for the ASX SPI 200 Future means all prices which are greater than 250 price steps away from the reference for the ASX SPI 200 Future.

See draft Part 2.2 (Competition).

Your feedback

B3Q1 Do you have any comments on this proposal?

Rationale

- 20 Based on feedback received on the volatility controls proposed in CP 168, we have changed the description from ‘extreme cancellation range’ to ‘extreme trade range’: see REP 290, Parts 2.1 and 2.2 (Competition) and Section B of draft updated RG 223. This reflects a shift in emphasis from relying on market operator’s cancellation powers to relying on preventing transactions being effected at such variance from the reference price.
- 21 We propose to increase the variance in products priced in the 0.1–9.9c category from 2c to 5c. This is because the smaller variance did not accurately reflect genuine supply and demand, volatility, and liquidity in this price bracket and was causing frequent enforced cancellation of transactions that were clearly not erroneous. We propose replacing the reference price step variances with an absolute dollar (cents) value for clarity and simplicity in calculating the variance. The same applies to replacing ‘greater than or equal to’ (\geq) with ‘greater than’ ($>$).

Cancellation of transactions executed within the extreme trade range

Proposal

- B4** We propose to amend Rule 2.3.1(2)(a) (Competition) to remove the requirement for a market operator to include in its policies and procedures a time limitation setting out the period from the time of execution in which a transaction must be identified by or to the market operator as occurring in the extreme trade range for it to be cancelled.

Under the amended rule, policies would need to state that any transactions executed in the extreme trade range will be cancelled.

See draft Rule 2.3.1(2) (Competition).

Your feedback

B4Q1 Do you have any comments on this proposal?

Rationale

- 22 Given our proposals on automated preventative controls for extreme price movements, to the extent these controls fail, we would expect market operators to identify and cancel all transactions in the extreme trade range automatically and as soon as possible.

Crossings during takeover bids and on-market buy-backs

Crossings during normal trading hours

- 23 Parts 6.4, 6.5 and 6.6 of ASIC Market Integrity Rules (ASX Market) 2010 and ASIC Market Integrity Rules (Chi-X Market) 2011 and Chs 2J and 6 of the *Corporations Act 2001* (Corporations Act) place restrictions on activities during takeover bids and on-market buy-backs.

Note: In this document references to ‘ASIC Market Integrity Rules (ASX)’, or to a chapter, part or rule followed by ‘(ASX)’, are references to the ASIC Market Integrity Rules (ASX Market) 2010. References to ‘ASIC Market Integrity Rules (Chi-X)’, or to a chapter, part or rule followed by ‘(Chi-X)’, are references to the ASIC Market Integrity Rules (Chi-X Australia Market) 2011.

- 24 In competition FAQ A10 on our website, we stated that a transaction ‘at or within the spread’ entered into other than on an order book is not an ‘on market’ transaction for the purpose of takeover bids and not entered into in the ‘ordinary course of trading’ for the purpose of an on-market buy-back. This means that an off-order book ‘at or within the spread’ transaction of bid class securities on behalf of the bidder under a takeover bid is not permitted. Similarly an off-order book ‘at or within the spread’ transaction of shares on behalf of a listed corporation conducting an on-market buy-back of its own shares is not permitted.

Issue

- B5** Our interpretation of the Corporations Act is that a transaction that is prearranged is not ‘on market’ and is not entered into in the ‘ordinary course of trading’ for the purposes of the takeover bid and on-market buy-back provisions of the Act. This means that transactions of this nature on behalf of the bidder in relation to bid class securities under a takeover bid or on behalf of a listed corporation conducting an on-market buy-back of its own shares are not permitted.

Market participants and market operators should already be applying this interpretation to off-order book ‘at or within the spread’ transactions referenced to the national best bid and offer (NBBO) and CentrePoint priority crossings. We would apply this interpretation to priority crossings from the date the rule on meaningful price improvement takes effect.

See draft Rule 4.2.3 (Competition).

Your feedback

B5Q1 Do you have any comments on this interpretation of the Corporations Act?

Rationale

- 25 Until 2009, priority crossings were required to appear on the ASX order book for 10 seconds prior to execution (10-second rule). Under this arrangement, we considered priority crossings to be ‘on market’ and part of the ‘ordinary course of trading’ on the market because other market participants were able to interact with the order within the 10-second period.
- 26 Because priority crossings now appear on ASX and execute simultaneously (i.e. they no longer appear for 10 seconds), we consider priority crossings to be prearranged and not entered into in the ordinary course of trading ‘on market’.
- 27 Further, the proposed rule on meaningful price improvement would require the NBBO to be the reference price for these crossings, rather than ASX’s TradeMatch: see draft Rule 4.2.3 (Competition). A priority crossing would then be more clearly an off-market transaction. Consistent with the intent of the Corporations Act that bidders and listed corporations conducting an on-market buy-back should not enter into prearranged transactions, we consider that priority crossings should not be permitted by, or on behalf of, a bidder during a takeover bid or by, or on behalf of, a listed corporation conducting an on-market buy-back.
- 28 The policy rationale of prohibiting priority crossings by, or on behalf of, a listed corporation conducting an on-market buy-back is that because priority crossings are an exception to the price–time priority rule and are prearranged, not all members of the listed corporation have a reasonable opportunity to participate in an on-market buy-back. Similarly, priority crossings by, or on behalf of, the bidder under a takeover bid offends the principle that holders of bid class securities have a reasonable and equal opportunity to participate in any benefits provided to the holders by the bidder.
- 29 We are aware that this interpretation for priority crossings will require system changes. We propose that the amendment to this rule would take effect from the date Rule 4.2.3 (Competition) on meaningful price improvement takes effect to allow coordination of IT system changes.

Crossings conducted late, overseas and overnight

Proposal

B6 We propose to amend Rules 6.4.1(1) (ASX) and 6.4.3(1) (ASX) and Rule 6.4.1(1) (Chi-X) so it is clear that a market participant conducting a late, overseas or overnight crossing in a cash market product or cash only combination during the offer period under a takeover bid must not do so at a price which is at or below the offer price for that product. To effect this change, we propose to amend these rules to refer to a 'Takeover Bid' rather than a 'Market Bid'.

We also confirm our interpretation that the prohibition in these rules applies to late, overseas and overnight crossings during the offer period for all schemes under s411 of the Corporations Act.

It does not apply to special crossings, which are prohibited at any price during a takeover bid for cash market products or a scheme under s411. As noted under 'Crossings during normal trading hours', market participants acting on behalf of a bidder must not enter into a prearranged transaction (i.e. a crossing) for the product that is the subject of the bid.

See draft Rules 6.4.1(1) (ASX) and 6.4.3(1) (ASX) and Rule 6.4.1(1) (Chi-X).

Your feedback

- B6Q1 Do you have any comments on our proposed amendment to refer to a 'Takeover Bid' rather than a 'Market Bid'?
- B6Q2 Do you have any comments on our interpretation of these rules for schemes under s411?

Rationale

- 30 The proposed amendment to Rules 6.4.1(1) (ASX) and 6.4.3(1) (ASX) and Rule 6.4.1(1) (Chi-X) clarifies our position on late, overseas or overnight crossings for takeover bids. The prohibition will apply to relevant crossings conducted during the offer period for a takeover bid, whether the bid is on market or off market. The policy rationale for prohibiting a market participant from conducting a late, overseas or overnight crossing in a cash market product during the offer period under a takeover bid at a price which is at or below the offer price for that product applies equally during the offer period under an off-market bid.
- 31 Market participants have asked for clarification on whether the prohibition on effecting a transaction at or below the offer price that is done in the late, overseas or overnight session state applies to an on-market or off-market scheme. We note there is no distinction between an on-market or off-market scheme under s411 of the Corporations Act. Accordingly, the prohibition in Rules 6.4.1(1) (ASX) and 6.4.3(1) (ASX) and Rule 6.4.1(1) (Chi-X) applies to all schemes under s411.

Post-trade transparency

Validation of delayed reported off-order book trades

Proposal

B7 In CP 168, we consulted on rules to confirm our expectation that market participants and market operators must have systems and controls in place to verify and validate that trades reported by them or to them, based on a pre-trade transparency exception, actually meet the criteria for the relevant exception. We intend to proceed with that proposal and propose to expand it to include verification and validation of trades entitled to delayed publication under Rule 5.1.1(2) (Competition). We propose that these transactions need to be verified and validated to ensure:

- (a) the consideration meets the relevant threshold in Rule 5.2.1 (Competition) (i.e. \$2 million, \$5 million, \$10 million or \$15 million) depending on the equity market product;
- (b) they are reported to a market operator within the timeframes set out in Rule 5.1.1(3) (Competition); and
- (c) they are not executed during a trading suspension.

See draft Rules 5.1.1(4A) and 5.1.4A (Competition) and Section F of draft updated RG 223.

Your feedback

B7Q1 Do you have any comments on this proposal?

Rationale

32 We expect a market participant to have the necessary controls in place to ensure that when it executes a large principal transaction or large portfolio trade, in which the market participant is principal and at risk, it validates its trades to ensure it complies with the requirements in Rule 5.1.1 (Competition).

33 Consistent with existing Australian market practice, we also expect a market operator to have the necessary controls in place to ensure that the trades reported to it meet the criteria under Rule 5.1.1 (Competition).

Definition of 'executing participant'

Proposal

B8 We propose to amend Rule 5.1.2(2) (Competition) to clarify the definition of 'executing participant'. Under Rule 5.1.2(1) (Competition), where both parties to an off-order book transaction are market participants, the executing participant must report the transaction to a market operator. Rule 5.1.2(2) (Competition) currently defines the executing participant as any one of:

- (a) the market participant that executes the trade (e.g. on its own crossing system); or

- (b) the seller; or
- (c) as agreed between the parties.

We propose to amend this rule so that 'executing participant' is defined solely as the market participant that executes the trade (e.g. on its own crossing system). Only in circumstances where both market participants to a transaction meet this definition would the other options be available (i.e. the seller could report the transaction or as agreed between the parties).

See draft Rule 5.1.2(2) (Competition).

Your feedback

B8Q1 Do you have any comments on this proposal?

Rationale

- 34 It is important to ensure that market participants executing trades on a crossing system are responsible for reporting to a market operator trades that are executed on their system. This ensures that these trades are reported as having occurred on a crossing system. Under draft Rule 5.1.4A (Competition), the execution venue (including crossing systems) must be identified on all trades reported to ASIC (this information will not be made public). This information will assist with our surveillance function as well as our analysis of market developments.

Market operator's obligation to make available trading information

Proposal

- B9 We propose to amend Rule 5.1.6 (Competition) to clarify the trading information that a market operator must make available on a website on a delayed basis of no more than 20 minutes. Specifically, the fields for last traded price, bid, offer, high and low include only on-order book information of the market operator. The volume field includes all trades on an order book or reported to a market operator.

See draft Rule 5.1.6 (Competition).

Your feedback

B9Q1 Do you have any comments on this proposal?

Rationale

- 35 We are concerned that the current drafting of Rule 5.1.6 (Competition) creates ambiguity about the information that market operators must make available on a website on a delayed basis of no more than 20 minutes. Clarifying the rule, which reflects current market practice, will ensure that all market operators are publishing comparable information.

Definition of ‘Large principal transaction’

Proposal

B10 We propose to amend the title of Rule 5.2.1 (Competition) from ‘Exceptions—Large Principal Transaction’ to ‘Delayed reporting—Large Principal Transaction’ to reflect that this rule contains a definition rather than an exception.

See draft Rule 5.2.1 (Competition).

Your feedback

B10Q1 Do you have any comments on this proposal?

Rationale

36 We have had feedback that the title to Rule 5.2.1 (Competition) suggests this is an exception to the requirement to report post-trade information, when the rule in fact defines a large principal transaction for the purposes of delayed reporting. We are concerned that the term ‘exception’ in the title may lead to confusion about the effect of this rule.

Note: The title of Part 5.2 (Competition) has also been changed from ‘Exceptions’ to ‘Delayed reporting’.

C Regulatory and financial impact

- 37 In developing the draft market integrity rules and guidance attached to 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) maximising market efficiency and opportunities for innovation; and
 - (b) mitigating risks to price formation and protecting the interests of market participants, investors and financial consumers.
- 38 Before settling on a final policy, we will comply with the requirements of the Office of Best Practice Regulation (OBPR) by:
- (a) considering all feasible options;
 - (b) if regulatory options are under consideration, undertaking a preliminary assessment of the impacts of the options on business and individuals or the economy;
 - (c) if our proposed option has more than low impact on business and individuals or the economy, consulting with OBPR to determine the appropriate level of regulatory analysis; and
 - (d) conducting the appropriate level of regulatory analysis, that is, complete a Regulation Impact Statement (RIS).
- 39 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.
- 40 To ensure that we are in a position to properly complete the required RIS, we ask you to provide us with as much information as you can about the impact of the draft market integrity rules and guidance, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.
- 41 For a high-level summary of what we understand will be the potential impacts of the draft market integrity rules and guidance on stakeholders' systems and/or business models, see Appendix 3 of REP 290. We would appreciate your comments on the issues discussed in that appendix as well as the points raised in paragraph 40.

Key terms

Term	Meaning in this document
12-61MR	ASIC media release (12-61MR) <i>ASIC provides direction on market structure reforms</i> , issued 3 April 2012
AOP (automated order processing)	The process by which orders are registered in a market participant's system, which connects it to a market. Client or principal orders are submitted to an order book without being manually keyed in by an individual (referred to in the rules as a DTR). It is through AOP systems that algorithmic programs access our markets
ASIC	Australian Securities and Investments Commission
ASIC Market Integrity Rules (ASX)	ASIC Market Integrity Rules (ASX Market) 2010—rules made by ASIC under s798G of the Corporations Act for trading on ASX
ASIC Market Integrity Rules (Chi-X)	ASIC Market Integrity Rules (Chi-X Australia Market) 2011—rules made by ASIC under s798G of the Corporations Act for trading on Chi-X
ASIC Market Integrity Rules (Competition)	ASIC Market Integrity Rules (Competition in Exchange Markets) 2011—rules made by ASIC under s798G of the Corporations Act that are common to markets dealing in equity market products quoted on ASX
ASX	ASX Limited (ACN 008 624 691) or the exchange market operated by ASX Limited
ASX SPI 200 Index Future (ASX SPI 200 Future)	The ASX 24 futures contract listed with S&P/ASX 200 Index as the underlying product
Australian domestic licensed financial market	A financial market licensed under s795B(1) of the Corporations Act
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
best available bid and offer	See 'NBBO'
best bid or offer	The best available buying price or selling price
best execution	Where a market participant achieves the best trading outcome for its client
bid–ask spread	The difference between the best bid and the best offer
CentrePoint	An ASX-operated execution venue that references the midpoint of the bid–ask spread on ASX's CLOB

Term	Meaning in this document
Centre Point priority crossing	A type of crossing that allows an ASX market participant to match orders at the midpoint of the prevailing best bid and offer on the ASX CLOB
Ch 2J (for example)	A chapter of the Corporations Act (in this example numbered 2J)
Chapter 2 (Competition)	A chapter of the ASIC Market Integrity Rules (Competition) (in this example, numbered 2)
Chi-X	Chi-X Australia Pty Limited or the exchange market operated by Chi-X
CLOB (central limit order book)	A central system of limit orders, where bids and offers are typically matched on price–time priority
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
CP 145	ASIC consultation paper <i>Australian equity market structure: Proposals</i> , released 4 November 2010
CP 168	ASIC consultation paper <i>Australian equity market structure: Further proposals</i> , released 20 October 2011
crossing	A type of transaction where the market participant is the same for both the buyer and the seller. The market participant may be acting on behalf of the buying client and the selling client, or acting on behalf of a client on one side of the transaction and as principal on the other side of the transaction
crossing system	An automated service provided by a market participant to its clients that matches or executes client orders with orders of the market participant (i.e. against the participant's own account) or with other clients of the market participant. These orders are not matched on a pre-trade transparent order book
dark liquidity	Non-pre-trade transparent orders
dark liquidity/trading below block size	Trades using the 'at or within the spread' exception to pre-trade transparency. These include priority crossings, Centre Point priority crossings, and Centre Point trades
dark pool/venue	Non-pre-trade transparent, electronically accessible pools of liquidity
dark trades/trading	See 'off-order book trading/transactions'
DTR	Representative of the market participant that has been authorised by the participant to submit trading messages to the execution venue on behalf of the participant
equity market	The market in which shares are issued and traded, either through exchange markets or OTC markets

Term	Meaning in this document
equity market products	Shares, managed investment schemes, the right to acquire by way of issue shares and managed investment schemes, and CDIs admitted to quotation on ASX
exchange market	<p>A market that enables trading in listed products, including via a CLOB</p> <p>Note: Not all exchange markets offer primary listings services.</p>
execution venue	<p>An execution venue is a facility, service or location on or through which transactions in equity market products are executed and includes:</p> <ul style="list-style-type: none"> • each individual order book maintained by a market operator; • a crossing system; and • a market participant executing a client order against its own inventory otherwise than on or through an order book or crossing system. This includes an order book and other matching mechanisms
extreme trade range	Has the meaning given in Rule 2.2.1 (Competition)
financial market	As defined in s767A of the Corporations Act. It encompasses facilities through which offers to acquire or dispose of financial products are regularly made or accepted
financial product	<p>Generally a facility through which, or through the acquisition of which, a person does one or more of the following:</p> <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); and • makes non-cash payments (see s763D) <p>Note: See Div 3 of Pt 7.1 of the Corporations Act for the exact definition.</p>
high-frequency traders	Traders that adopt a specialised form of algorithmic trading characterised by the use of high-speed computer programs
high-frequency trading	<p>While there is not a commonly agreed definition of high-frequency trading, we characterise it as:</p> <ul style="list-style-type: none"> • the use of high-speed computer programs to generate, transmit and execute orders; • the generation of large numbers of orders, many of which are cancelled rapidly; and • typically holding positions for very short time horizons and ending the day with a zero position

Term	Meaning in this document
large portfolio trade	A transaction that includes at least 10 purchases or sales, the market participant acts as agent for both the buyer and seller of the portfolio or as principal buys from or sells to the client, and the consideration of each is not less than \$200,000 and the aggregate consideration is not less than \$5 million. This has the same definition as 'portfolio crossing'
limit order	An order for a specified quantity of a product at a specified price or better
liquidity	The ability to enter and exit positions with a limited impact on price
managed investment scheme	As defined in s9 of the Corporations Act
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
market licence	An Australian market licence
market operator	A holder of an Australian market licence that is the operator of a financial market on which equity market products are quoted
market participant	An entity that is a participant of a financial market on which equity market products are quoted
NBBO (national best bid and offer)	The highest bid (best buying price) and the lowest offer (best selling price) for a product that is available across all pre-trade transparent order books at the time of the transaction. The best bid and best offer may not necessarily be on the same order book. It may be that the best bid is on the order book of Market X and the best offer is on the order book of Market Y
off-order book trading/transactions	Transactions that take place away from a CLOB and that are not pre-trade transparent. It is often referred to as 'dark liquidity' or 'upstairs trading'. It includes bilateral OTC transactions and transactions resulting from a market participant matching client orders or matching a client order against the participant's own account as principal. When this type of trading is done in an automated way and is part of a pool of liquidity, it is referred to as a 'dark pool'
order book	An electronic list of buy orders and sell orders, maintained by or on behalf of a market operator, on which those orders are matched with other orders in the same list
OTC	Over-the-counter
Part 4.3 (Competition)	A part of the ASIC Market Integrity Rules (Competition) (in this example numbered 4.3)

Term	Meaning in this document
portfolio crossing	See 'large portfolio trade'
post-trade transparency	Information on executed transactions made publicly available after transactions occur
pre-trade transparency	Information on bids and offers being made publicly available before transactions occur (i.e. displayed liquidity)
price formation	The process determining price for a listed product through the bid and offer trading process of a market
price step	The difference in price of one tick size
price-time priority	A method for determining how orders are prioritised for execution. Orders are first ranked according to their price; orders of the same price are then ranked depending on when they were entered
priority crossing	A type of crossing on ASX's CLOB that is transacted at or within the spread with time priority
REP 290	ASIC report <i>Response to submissions on CP 168 Australian equity market structure: Further proposals</i> , released 28 June 2012
RG 223 (for example)	An ASIC regulatory guide (in this example numbered 223)
Rule 5.6.3 (ASX) (for example)	A rule of the ASIC Market Integrity Rules (ASX) (in this example, numbered 5.6.3)
Rule 5.6.3 (Chi-X) (for example)	A rule of the ASIC Market Integrity Rules (Chi-X) (in this example, numbered 5.6.3)
Rule 6.5.1 (Competition) (for example)	A rule of the ASIC Market Integrity Rules (Competition) (in this example numbered 6.5.1)
s411 (for example)	A section of the Corporations Act (in this example numbered 411), unless otherwise specified
S&P/ASX 200 Index	An index of the largest 200 shares listed on ASX by market capitalisation
short selling	The practice of selling financial products that are not owned by the seller, with a view to repurchasing them later at a lower price. Short sales can be naked or covered
spread	The difference between the best bid and offer prices

Term	Meaning in this document
trading halt or suspension	A temporary pause in the trading of a product for a reason related to market integrity, such as when an announcement of price sensitive information is pending (does not include a halt or suspension caused by a technical problem, including a power outage, affecting a market operator's trading system)
tick size	The minimum increment by which the price for an equity market product may increase or decrease
volatility	Fluctuation in a product's price
volatility control	A post-order control that prevents certain orders from being matched beyond set price limits. These controls aim to limit the disruptive effect of anomalous trades