



Corporations (FX Alliance International, LLC) Exemption Notice 2006

I, CHRIS PEARCE, Parliamentary Secretary to the Treasurer, issue this Notice under section 791C of the *Corporations Act 2001*.

Dated 30th March 2006

Parliamentary Secretary to the Treasurer

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1 Name of Notice

This Notice is the *Corporations (FX Alliance International, LLC) Exemption Notice 2006*.

2 Commencement

This Notice commences on the date of its publication in the *Gazette*.

3 Definitions

In this Notice:

Act means the *Corporations Act 2001*.

annual report means a report required under subsection 12 (1).

Australian participant means a person in Australia who is a participant in the Platform.

foreign participant means a participant in the platform other than an Australian participant.

International means FX Alliance International, LLC.

participant has the same meaning as in section 761A of the Act.

Platform means the financial market operated by International in:

- (a) financial products mentioned in paragraph 764A (1) (k) of the Act; and
- (b) foreign exchange derivatives.

Note Other words and phrases used in this Notice have the meaning given by the Act, including *associated entity* and *derivative*.

4 Exemption

For section 791C of the Act, and subject to the conditions mentioned in sections 5 to 14 of this Notice, the Platform is exempt from the operation of Part 7.2 of the Act.

5 Holding Australian financial services licence

International must, at all times, hold an Australian financial services licence that covers the provision of the financial services involved in the operation of the Platform.

6 Participants

- (1) Each Australian participant in the Platform must be a person who is:
 - (a) a professional investor, within the meaning of paragraph (d) or (e) of the definition of *professional investor* in section 9 of the Act, who trades only on his, her or its own behalf or on behalf of:
 - (i) the beneficiaries of the trusts of which the professional investor acts as trustee; or

- (ii) the owners of the assets controlled by the professional investor;
or
 - (b) a professional investor, within the meaning of any other paragraph of that definition, who trades only on his or her own behalf or on behalf of 1 or more other professional investors within the meaning of that definition.
- (2) Each foreign participant in the Platform must be:
 - (a) qualified; and
 - (b) if required — registered or licensed;as a corporate, institutional or professional investor for the purposes of the regulatory requirements of the jurisdiction in which it is located.

7 Permissible financial products and activities

The financial products that are able to be traded on the Platform are:

- (a) financial products mentioned in paragraph 764A (1) (k) of the Act; and
- (b) foreign exchange derivatives.

8 Operation of the Platform

- (1) The Platform must be operated in materially the same way as was described in the letter to ASIC dated 27 January 2005 in which International applied for an exemption from the operation of Part 7.2 of the Act.
- (2) Without limiting subsection (1), International and any associated entity:
 - (a) must not operate a clearing and settlement facility for the Platform; and
 - (b) may provide clearing and settlement arrangements for the Platform only by providing information and by establishing procedures for the settlement of transactions effected through the Platform.

9 Telling ASIC about actions taken in operating the Platform

- (1) If, in the course of operating the Platform:
 - (a) International takes disciplinary action against an Australian participant of the Platform; or
 - (b) International has reason to suspect that an Australian participant has committed, is committing or is about to commit a significant contravention of the Act or the operating rules of the Platform;International must tell ASIC about the matter, in writing, as soon as practicable.
- (2) If paragraph (1) (a) applies, International must also tell ASIC, at the same time:
 - (a) the participant's name; and
 - (b) the reason for and nature of the disciplinary action taken.

- (3) If paragraph (1) (b) applies, International must also tell ASIC, at the same time:
 - (a) the participant's name; and
 - (b) details of the suspected contravention or impending contravention; and
 - (c) International's reason for its suspicion.

10 Telling ASIC about matters affecting the operation of the Platform

If International becomes aware that International, a related body corporate or a director or secretary of International:

- (a) has become the subject of a declaration of contravention in relation to a provision of the Act; or
- (b) has been found guilty of an offence under the Act; or
- (c) has been disqualified from managing corporations; or
- (d) has been banned or disqualified from providing financial services;

International must tell ASIC, in writing, of the matter within 14 days after becoming aware of it.

11 Telling ASIC about ceasing to operate the Platform

If International ceases to operate the Platform in this jurisdiction, it must tell ASIC, in writing, of the matter within 7 days after it ceases to operate the Platform.

12 Annual report

- (1) International must give a written report to ASIC within 3 months after the end of its financial year.
- (2) The report must:
 - (a) set out the extent to which International has complied with the conditions to which the exemption is subject; and
 - (b) be accompanied by the following information:
 - (i) a description of the activities that International has undertaken in the financial year;
 - (ii) the number, duration, cause and resolution of material system outages that prevented Australian participants from using the Platform;
 - (iii) the name and number of Australian participants that are authorised to access the Platform at the end of the financial year;
 - (iv) details for the financial year of the volume of trading on the Platform;

- (v) the number and nature of significant complaints made to International by Australian participants in the Platform, and the action taken by International in response to each complaint identified;
- (vi) any specific regulatory issue that International encountered during the year (including any change in regulatory status in its home jurisdiction), and the action taken to resolve the issue (whether inside or outside this jurisdiction);
- (vii) details of any significant conflict of interest identified by International in relation to its operation of the Platform, and how it was resolved.

13 Audit report after annual report

If the Minister gives a written notice to International, requiring International to obtain an audit report on:

- (a) an annual report; or
 - (b) any information or statements accompanying an annual report;
- from a person or body specified in the notice, International must comply with the notice as soon as practicable.

Note The Minister will nominate:

- (a) ASIC; or
 - (b) another person or body that is suitably qualified to conduct an audit;
- to prepare the audit report.

14 Assistance to ASIC

International must enter into a written arrangement with ASIC for cooperation with ASIC in matters to which this Notice relates.