



## Corporations (ICAP Brokers Pty Limited) Exemption Notice 2010

*Corporations Act 2001*

---

I, CHRIS BOWEN, Minister for Financial Services, Superannuation and Corporate Law, make this Notice under section 791C of the *Corporations Act 2001*.

Dated *24th February* 2010

A handwritten signature in black ink, appearing to read 'Chris Bowen', is written over the printed name of the Minister.

Minister for Financial Services, Superannuation and Corporate Law

---

**1 Name of Notice**

This Notice is the *Corporations (ICAP Brokers Pty Limited) Exemption Notice 2010*.

**2 Commencement**

This Notice commences on the day of its notification in the *Gazette*.

**3 Revoking exemption**

For paragraph 791C (2) (c) of the Act, the *Corporations (ICAP Brokers Pty Ltd) Exemption Notice 2004* is revoked.

**4 Definitions**

In this Notice:

*Act* means *Corporations Act 2001*.

*Australian participant* means a person in Australia who is a participant.

*ETC market* means the financial market in Australian Government and semi-government bonds operated by ICAP Brokers.

*foreign participant* means a participant who is not an Australian participant.

*ICAP Brokers* means the corporation known as ICAP Brokers Pty Limited.

*Note* The following expressions used in this Notice are defined in the Act:

- ASIC (section 9)
- Australian financial services licence (section 761A)
- clearing and settlement facility (section 768A)
- corporation (section 57A)
- declaration of contravention (section 1317E)
- financial market (section 761A)
- financial product (section 761A)
- financial service (section 761A)
- financial year (section 323D)
- operating rules (section 761A)
- participant (section 761A)
- professional investor (section 9).

**5 Exemption**

For section 791C of the Act, and subject to the conditions mentioned in sections 6 to 17, the ETC market is exempt from the operation of Part 7.2 of the Act.

**6 Operation of ETC market**

- (1) ICAP Brokers must operate the ETC market in all essential details in the way set out in its application to ASIC, dated 1 December 2003, for an exemption from the operation of Part 7.2 of the Act.
- (2) ICAP Brokers must ensure that each trade on the ETC market is in a parcel worth at least \$1 000 000.
- (3) ICAP Brokers must not:
  - (a) operate a clearing and settlement facility for the ETC Market; or
  - (b) engage any other person to operate a clearing and settlement facility for the ETC Market.

**7 Licensing of ICAP Brokers**

ICAP Brokers must hold an Australian financial services licence that covers the provision of financial services involved in the operation of the ETC market.

**8 Participants who may trade on ETC market**

- (1) ICAP Brokers must not admit an Australian participant to the ETC market, or allow an Australian participant to enter into a trade on the ETC market, unless the Australian participant is a professional investor that is trading on its own behalf or on behalf of another professional investor.
- (2) ICAP Brokers must not admit a foreign participant, or allow a foreign participant, to enter into a trade on the ETC market unless the foreign participant is:
  - (a) a professional or institutional investor in the jurisdiction in which the participant trades; and
  - (b) is trading on its own behalf or on behalf of another professional or institutional investor.
- (3) ICAP Brokers must not trade on the ETC market on its own behalf or on behalf of another investor.

**9 Financial products traded on ETC Market**

ICAP Brokers may facilitate trading in a financial product on the ETC market only if the financial product is an Australian Government or semi-government bond.

**10 Arrangements to manage conflicts of interest**

- (1) ICAP Brokers must establish and maintain arrangements to manage any conflicts of interest that arise in relation to activities undertaken by ICAP Brokers in the operation of the ETC market.
- (2) The arrangements must be to the satisfaction of ASIC.

**11 Annual report**

Within 3 months of the end of each financial year, ICAP Brokers must give an annual report to ASIC that sets out information about the extent to which ICAP Brokers has complied with the conditions of this Notice during the financial year, including the following:

- (a) a description of the activities in relation to the operation of the ETC market that ICAP Brokers undertook during the financial year;
- (b) if any material system outages occurred during the financial year that prevented Australian participants from using the ETC market:
  - (i) the number of such outages; and
  - (ii) the duration of each outage; and
  - (iii) the cause of each outage; and
  - (iv) a description of the means by which each outage was resolved;
- (c) the names and number of Australian participants authorised to access the ETC market on the first and last days of the financial year;
- (d) details of the volume of trading on the ETC market by Australian participants during the financial year;
- (e) the number and nature of significant complaints made to ICAP Brokers by Australian participants who used the ETC market during the financial year, and the action taken by ICAP Brokers in response to each complaint;
- (f) any specific regulatory issues that ICAP Brokers encountered during the financial year, and the actions taken to resolve each of those issues (whether inside or outside Australia);
- (g) details of any significant conflicts of interest identified by ICAP Brokers in relation to its operation of the ETC market during the financial year, and how each conflict of interest was resolved.

**12 Minister may require ICAP Brokers to obtain audit about annual report**

- (1) The Minister may, by written notice, require ICAP Brokers to obtain an audit report about:
  - (a) the annual report mentioned in section 11; and
  - (b) any information or statements accompanying the annual report.
- (2) The Minister may nominate either of the following to undertake the audit:
  - (a) ASIC;
  - (b) a specified person or body that is suitably qualified.

**13 Notice of certain events involving Australian participant**

- (1) If ICAP Brokers takes any disciplinary action against an Australian participant of the ETC market, ICAP Brokers must, as soon as practicable after the action is taken, advise ASIC in writing of:
  - (a) the participant's name; and
  - (b) the reason for and the nature of the action taken; and
  - (c) when the action was taken.
- (2) If ICAP Brokers 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 ETC market's operating rules, ICAP Brokers must, as soon as practicable, advise ASIC in writing of:
  - (a) the participant's name; and
  - (b) details of the contravention or impending contravention; and
  - (c) ICAP Brokers' reasons for that belief.

**14 Notice of certain events involving ICAP Brokers, its director or secretary**

ICAP Brokers must, within 7 days, advise ASIC in writing if ICAP Brokers becomes aware that ICAP Brokers, or a director or secretary of ICAP Brokers:

- (a) is the subject of a declaration of contravention in relation to a provision of the Act; or
- (b) has been convicted of an offence under the Act; or
- (c) has been disqualified from managing a corporation; or
- (d) has been banned from providing financial services.

**15 Notice if ICAP Brokers ceases to operate ETC market**

ICAP Brokers must, within 7 days, advise ASIC in writing if it ceases to operate the ETC market in Australia.

**16 Requirement to assist ASIC**

If ICAP Brokers receives a reasonable request from ASIC to give assistance to ASIC, or a person authorised by ASIC, about the performance of ASIC's functions in relation to the operation of the ETC market, ICAP Brokers must:

- (a) provide the assistance; and
- (b) give ASIC access to any information, documents or books held by or relating to ICAP Brokers.

**17 Requirement to enter written arrangement with ASIC**

ICAP Brokers must enter into a written arrangement with ASIC for cooperation with ASIC in matters about this Notice.