



**ASIC**

Australian Securities & Investments Commission

**[CO 02/1013]**

## **Sydney Futures Exchange Limited – associate participants**

*Issued 26/9/2002*

*Class Order [CO 02/1013] applies to persons who until 30 September 2002 were associate participants of the Sydney Futures Exchange Limited. The class order exempts such people from the requirement to be a member of a futures organisation under s1148 of the Corporations Act (as in force on 10 March 2002), subject to certain conditions. People relying on this class order may then transition to an Australian Financial Services Licence in accordance with the transitional arrangements in the Corporations Act 2001.*

Australian Securities and Investments Commission  
Corporations Act 2001 – Paragraph 1437(2)(b) – Declaration

Under paragraph 1437(2)(b) of the Corporations Act 2001 (the “Act”) the Australian Securities and Investments Commission (“ASIC”) hereby declares that Parts 8.3, 8.4 (other than section 1210) and 8.5 and sections 1266 and 1267 of the old Corporations Act and any associated provisions apply in relation to each person in the class of persons referred to in the Schedule as if section 1148 of that Act were modified or varied by adding at the end the following subsections:

- “(3) Subsection (1) does not apply to a futures brokers licence after 30 September 2002, and any express condition set out in the licence to the effect of that referred to in subsection (1) is of no effect after that date, if the holder of that licence satisfies each of the following:
- (a) they were on that date an Associate Participant of SFE within the meaning of the By-Laws; and
  - (b) after that date:
    - (i) they ensure that the value of their Net Tangible Assets within the meaning of the By-Laws is not

less than the level set out in By-Law G.4.16(b) and G.4.28 for the relevant class of Associate Participant they were in on 30 September 2002; and

- (ii) they maintain the indemnity required under By-Law G.4.16(j) and any applicable determination by SFE which on 30 September 2002 was in force under that By-Law; and
  - (iii) they comply with By-Law G.13 as affected by any approvals of a bank as an Approved Foreign Bank and any conditions of those approvals as in force for the purposes of that By-Law on 30 September 2002; and
  - (iv) as soon as practicable after 30 September 2002 (and in any event not later than 28 October 2002) they take all reasonable steps to send to each person who was their client on 30 September 2002 a notice in writing explaining that:
    - (A) they are, from 1 October 2002, no longer a member of SFE; and
    - (B) retail clients, as defined in subsection 761G(1), may nonetheless have access to the arbitration procedures of SFE where a dispute arises with a person who was an Associate Participant of SFE immediately before 1 October 2002; and
    - (C) in such a case, arbitration may be initiated in accordance with the operating rules of SFE; and
  - (v) before accepting a person as a client they give to the person the explanatory material required under subparagraph (iv).
- (4) From 1 October 2002 the operating rules of SFE (as in force from time to time) insofar as they relate to arbitration for the resolution of disputes involving a retail client apply to the holder of a futures brokers licence who satisfies paragraph (3)(a) as if that person were a "Participant" within the meaning of those rules.
- (5) In this section:

- (a) **By-Laws** means the By-Laws of SFE as in force on 30 September 2002;
- (b) **client** means a person with whom an ex-Associate Participant has an agreement of the kind referred to in paragraph 1210(b);
- (c) **operating rules** has a meaning given by section 761A of the Act as in force on and from 12 March 2002;
- (d) **retail client** has a meaning given by section 761G of the Act as in force on and from 12 March 2002; and
- (e) **SFE** means Sydney Futures Exchange Limited (ACN 000 943 377).”.

#### SCHEDULE

A person:

1. who holds a futures brokers licence; and
2. who was, on 30 September 2002, an “Associate Participant” of Sydney Futures Exchange Limited within the meaning of the By-Laws of that body, as in force on that date; and
3. who is not a person to whom Class Order [02/779] applies.

#### Commencement

This instrument takes effect on 1 October 2002.

#### Interpretation

In this instrument, “associated provisions” and “old Corporations Act” have the same meanings as in subsection 1410(1) of the Act.

Dated this 26th day of September 2002

Signed by Brendan Byrne  
as a delegate of the Australian Securities and Investments Commission