

# Attachment 3 to CP 235: Proposed amendments to ASIC market integrity rules and instruments for the Chi-X investment product market



**ASIC**

Australian Securities & Investments Commission

## **Proposed amendments to the ASIC Market Integrity Rules (ASX Market) 2010**

August 2015

These draft amended rules reflect the proposals in Consultation Paper 235 *Proposed amendments to ASIC market integrity rules and instruments for the Chi-X investment product market* (CP 235).

For a copy of CP 235, see [www.asic.gov.au/cp](http://www.asic.gov.au/cp).

For more information, including the related ASIC media release, go to [www.asic.gov.au/markets](http://www.asic.gov.au/markets)

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# Chapter 1: Introduction

## Part 1.1 Preliminary

### 1.1.1 Enabling legislation

ASIC makes this instrument under subsection 798G(1) of the Corporations Act.

### 1.1.2 Title

This instrument is *ASIC Market Integrity Rules (ASX Market) 2010*.

### 1.1.3 Commencement

This instrument commences on the later of:

- (a) the day the instrument is registered under the *Legislative Instruments Act 2003*; and
- (b) the commencement of Schedule 1 to the *Corporations Amendment (Financial Market Supervision) Act 2010*.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (FRLI) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of register). The FRLI may be accessed at <http://www.frli.gov.au/>.

### 1.1.4 Scope of these Rules

These Rules apply to:

- (a) the activities or conduct of the Market;
- (b) the activities or conduct of persons in relation to the Market;
- (c) the activities or conduct of persons in relation to Financial Products traded on the Market.

Note: There is no penalty for this Rule.

### 1.1.5 Entities that must comply with these Rules

The following entities must comply with these Rules:

- (a) the Market Operator;
- (b) Market Participants; and
- (c) Other Regulated Entities;

as specified in each Rule.

Note: There is no penalty for this Rule.

### 1.1.6 Conduct by officers, Employees or agents

In these Rules, conduct engaged in on behalf of a person:

- (a) by an officer, Employee, or other agent of the person, and whether or not within the scope of the actual or apparent authority of the officer, Employee, or other agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an officer, Employee, or other agent of the person, and whether or not the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer, Employee, or other agent,

is deemed to have been engaged in by the person.

Note: There is no penalty for this Rule.

### 1.1.7 State of mind of a person

(1) If for the purposes of these Rules in respect of conduct engaged in by a person, it is necessary to establish the state of mind of the person, it is sufficient to show that an officer, Employee, or other agent of the person, being an officer, Employee, or other agent by whom the conduct was engaged in and whether or not the conduct was within the scope of the actual or apparent authority of that officer, Employee, or other agent, had that state of mind.

(2) In subrule (1), a reference to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

Note: There is no penalty for this Rule.

## Part 1.2 Waiver

### 1.2.1 Waiver of Rules

(1) Subject to Rule 1.2.3, ASIC may relieve any person or class of persons from the obligation to comply with a provision of these Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.

(2) If any conditions on a waiver given under subrule (1) are imposed, all of the conditions must be complied with for the waiver to be effective.

(3) ASIC may withdraw, in writing, a waiver given under subrule (1) at any time.

(4) Any request by a person for a waiver under subrule (1) must be in writing.

(5) Any waiver given under subrule (1), and any conditions imposed on that waiver, must be in writing.

(6) ASIC may publish notice of a waiver given under subrule (1).

Note: There is no penalty for this Rule.

## 1.2.2 Compliance with conditions

Failure to comply with a condition imposed under Rule 1.2.1 is a contravention of this Rule.

Maximum penalty: \$1,000,000

## 1.2.3 Period during which relief applies

ASIC may specify the period or specific event during which any relief from an obligation to comply with a provision of these Rules may apply.

Note: There is no penalty for this Rule.

## 1.2.4 Register

(1) ASIC may establish and maintain a register for recording details of relief granted under Rule 1.2.1 and may enter the following details in the register:

- (a) the date that the relief takes effect;
- (b) the person or class of persons relieved from the obligation;
- (c) the provision to which the relief applies;
- (d) brief reasons for the relief; and
- (e) any conditions that apply to the relief.

(2) ASIC may publish the register referred to in subrule (1).

Note: There is no penalty for this Rule.

# Part 1.3 Notice, notification and service of documents

## 1.3.1 Market Participant to have email

A Market Participant must acquire and maintain an operating email system for the purposes of receiving notices under these Rules.

Note: There is no penalty for this Rule.

## 1.3.2 Methods of giving notice in writing

Unless otherwise specified in a Rule, ASIC may give a notice under these Rules by any of the following methods:

- (a) delivering it to the recipient personally;
- (b) leaving it at or by sending it by courier or post to the address of the recipient last notified to ASIC;
- (c) sending it by facsimile to the recipient's facsimile number last notified to ASIC;

- (d) a circular or bulletin addressed to a class of persons and delivered or communicated by any means permitted under this Rule;
- (e) specific email by any method which identifies a person or person's title as addressee and no notice of non-delivery has been received;
- (f) broadcast email by any method which identifies the addressee and which, having regard to all the relevant circumstances at the time, was as reliable as appropriate for the purposes for which the information was communicated.

Note: There is no penalty for this Rule.

## Part 1.4 Interpretation

### 1.4.1 References to time

In these Rules a reference to time is to the time in Sydney, Australia.

Note: There is no penalty for this Rule.

### 1.4.2 Words and expressions defined in the Corporations Act

Words and expressions defined in the Corporations Act will unless otherwise defined or specified in these Rules or the contrary intention appears, have the same meaning in these Rules.

Note: There is no penalty for this Rule.

### 1.4.3 Definitions

**“Accreditation Examination”** means an examination approved by ASIC in accordance with subrule 2.4.7(4) or 2.4.8(4).

**“Accredited Adviser”** means:

- (a) a Level One Accredited Derivatives Adviser;
- (b) a Level Two Accredited Derivatives Adviser; or
- (c) an Accredited Futures Adviser.

**“Accredited Futures Adviser”** means a person who has been accredited under Rule 2.4.6 and whose accreditation is current.

**“AFSL”** means an Australian financial services licence granted under section 913B of the Corporations Act.

**“AOP Annual Notification”** has the meaning given by subrule 5.6.8B(1).

**“AOP Annual Review”** has the meaning given by Rule 5.6.8A.

**“AOP Annual Review Date”** means 1 November each calendar year.

“**AOP Initial Certification**” has the meaning given by Rule 5.6.6.

“**AOP Material Change Review**” has the meaning given by subrule 5.6.8(1).

“**Approved Ratings Agency**” means a credit rating agency holding an AFSL authorising it to give general advice by issuing a credit rating.

“**AQUA Product**” means a Financial Product which is:

- (a) a Managed Fund Product;
- (b) an ETF Security; or
- (c) a Structured Product;

which is admitted to Trading Status as an AQUA Product or to the AQUA Quote Display Board.

“**AQUA Product Issuer**” means an entity which issues, distributes or makes available AQUA Products and which has been admitted as an AQUA Product Issuer.

“**AQUA Quote Display Board**” means the facility provided by the Market Operator for AQUA Product Issuers and Trading Participants to advertise their interest in acquiring or disposing of AQUA Products.

“**ASIC**” means the Australian Securities and Investments Commission.

“**ASIC Act**” means the *Australian Securities and Investments Commission Act 2001* as amended from time to time.

“**ASX**” means ASX Limited (ACN 008 624 691).

“**Auction**” means an auction conducted in a Trading Platform in respect of Qualifying Bids or Offers pursuant to the following process:

- (a) the highest ranked Bid In Price/Time Priority is paired with the highest ranked Offer In Price/Time Priority so that either the Bid or the Offer is fully satisfied;
- (b) a new priority of Bids and Offers is established after deducting the quantity of Products paired under paragraph (a);
- (c) the pairing and re-establishment of priority set out in paragraphs (a) and (b) is repeated until the highest ranked Bid In Price/Time Priority is below the highest ranked Offer In Price/Time Priority;
- (d) all paired Bids and Offers are then matched at the Equilibrium Price;
- (e) where the highest Bid and lowest Offer prices respectively do not match or overlap, such Bids and Offers will not participate in the process outlined in paragraph (b);
- (f) any Bids or Offers which have not been matched at the completion of the process described in paragraph (b) will be carried through to the next session.

“**Australian ADI**” has the meaning given by section 9 of the Corporations Act.

“**Authorised Person**” means a person who:

- (a) is either:
  - (i) a client of a Trading Participant;
  - (ii) an agent of a client of a Trading Participant; or
  - (iii) a Representative of a Trading Participant; and
- (b) is permitted by a Trading Participant to submit orders into the Trading Participant's system.

**“Automated Client Order Processing”** is the Automated Order Processing of an order submitted by an Authorised Person into a Trading Participant's system.

**“Automated Order Processing”** means the process by which orders are registered in a Trading Participant's system and, if accepted for submission into a Trading Platform by the Trading Participant, submitted as corresponding Trading Messages without being keyed or rekeyed by a DTR.

**“Automated Order Processing Requirements”** means the requirements of Part 5.6.

**“Bid”** means:

- (a) in relation to a Cash Market Product, a price and quantity of the Cash Market Product to be purchased;
- (b) in relation to a Derivatives Market Contract, an offer to enter into a Derivatives Market Transaction in respect of the relevant Derivatives Market Contract as Buyer; and
- (c) in relation to a Combination, a price and quantity of the Combination.

**“Bid Class”** means, in relation to a Takeover Bid, the class of Financial Products included in the bid class of Financial Products under the Corporations Act.

**“Bid Period”**:

- (a) for an Off-Market Bid, means the period that commences when the Bidder's statement is given to the Target and ends:
  - (i) 1 month later if no offers are made under the bid; or
  - (ii) at the end of the Offer Period;
- (b) for a Market Bid, starts when the bid is announced to the Market by the Market Participant acting on behalf of the Bidder and ends at the end of the Offer Period; and
- (c) for a Scheme, starts when the announcement of intention to propose a Scheme is first received by the Market until the date on which the Scheme is effected.

**“Bidder”** means:

- (a) in relation to an Off-Market Bid or Market Bid, a bidder within the meaning of the Corporations Act and, in respect of an Issuer incorporated or established outside Australia, the equivalent entity; and
- (b) in relation to a Scheme, the entity or entities in a similar position to a bidder.



“**Business Day**” means a day other than a Saturday, Sunday, New Year’s Day, Good Friday, Easter Monday, Christmas Day or Boxing Day.

“**Buyer**” means, in relation to a Derivatives Market Transaction, the Trading Participant whose purchase, bid or buy instruction, order or other Trading Message has resulted in the Derivatives Market Transaction being entered into, whether or not in connection with any Crossing, other Derivatives Market Transaction or any transaction in any Cash Market Product or Non-ASX Contract and includes the taker of an Options Market Contract.

“**Cash Market Product**” means a Quoted Product, a Warrant admitted to Trading Status, an AQUA Product admitted to Trading Status or to the AQUA Quote Display Board, a CGS Depository Interest admitted to Trading Status and any other product that the Market Operator authorises for trading on a Trading Platform as a Cash Market Product.

“**Cash Market Transaction**” means a transaction between Trading Participants for one or more Cash Market Products.

“**Cash Only Combination**” means a transaction consisting of two or more component Cash Market Transactions, in a specific ratio, in respect of which:

- (a) entry into each component Cash Market Transaction is contingent on entry into each of the other component Cash Market Transactions;
- (b) the combined transaction has a net price; and
- (c) each transaction is for the same client.

“**Central Order book**” means a part of a Trading Platform which is a facility for submitting Trading Messages and entering into transactions in respect of:

- (a) Derivatives Market Contracts;
- (b) Cash Market Products;
- (c) Tailor-Made Combinations;
- (d) Standard Combinations.

“**CGS Depository Interest**” has the meaning given by section 761A of the Corporations Act.

“**CHESS Depository Interest**” has the meaning given to the term “CDI” by Rule 2.13.1 of the Operating Rules of ASX Settlement Pty Limited (ACN 008 504 532).

“**Class**” means, in relation to Derivatives Market Contracts, all Contract Series with the same Underlying Index, Underlying Commodity, Underlying Financial Product or Underlying Instrument, as applicable.

“**Clearing Facility**” means, in relation to a Market Transaction, the clearing and settlement facility, within the meaning of section 761A of the Corporations Act, through which the Market Transaction has been or will be cleared.

“**Clearing Obligation**” means an obligation imposed on a Clearing Participant under the Clearing Rules.

**“Clearing Participant”** means a person admitted as a participant under the Clearing Rules.

**“Clearing Rules”** means:

- (a) in relation to a particular Clearing Facility, the operating rules, procedures, practices, directions, decisions and requirements of that Clearing Facility;
- (b) in relation to a particular Clearing Participant, the rules of the Clearing Facility to which that Clearing Participant is subject.

**“Client Agreement”** means an agreement between the Trading Participant and its client, entered into under Rule 3.1.6, 3.1.7, 3.1.8 or 3.1.9.

**“Combination”** means a Cash Only Combination or a Derivatives Combination.

**“Commencement Date”** means the date this instrument commences, as set out in Rule 1.1.3.

**“Company Announcements Office”** means the office of the Market Operator that processes announcements regarding Listed Entities for release to the Market.

**“Competition Market Integrity Rules”** means the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* as amended from time to time.

**“Compliance Education”** means education or professional development directly related to compliance obligations, policies, procedures and ethics with specific relevance to the obligations of the Market Participant and the Responsible Executive under these Rules, the Market Operating Rules, the Clearing Rules and the Settlement Rules.

**“Compliance Education Requirements”** means the successful completion of 8 hours of Compliance Education during the period from 1 July each year to 30 June in the following year.

**“Compliance Manager”** means a person who has responsibility for all or part of the compliance function in the business of the Market Participant in connection with the Market.

**“Conditional Sale”** means a sale which is subject to fulfilment of conditions and made on a market declared by the Market Operator to be a conditional market.

**“Continuing Professional Education Requirements”** means the requirements of Rule 2.4.21.

**“Contract Series”** means a Futures Series or an Option Series.

**“Controlled Trust”** means a trust in relation to which an Employee, Immediate Family of an Employee or a company controlled by an Employee:

- (a) is a trustee;
- (b) holds more than 50% of the whole beneficial interest; or
- (c) controls the trust.

**“Controller”** means:

- (a) a person holding 20% or more of the total votes attached to voting shares of a Market Participant or a person who, together with Related Parties, holds 20% or more of such votes; or
- (b) a person who has the power to control the Market Participant, whether that power is direct or indirect or is, or can be, exercised as a result of, by means of, in breach of, or by revocation of, trusts, relevant agreements and practices, or any of them, and whether or not they are enforceable,

but for the purposes of Part 5.2 does not include an entity if the entity, a holding company of the entity, or a subsidiary of the entity through which the entity has an interest in the Market Participant is an entity listed on the Market or with any other Australian market licensee or a Recognised Overseas Stock Exchange.

**“Corporations Act”** means the *Corporations Act 2001* (Cth).

**“Cross”** or **“Crossing”**, means a transaction in respect of which a Trading Participant acts:

- (a) on behalf of both buying and selling clients to that transaction; or
- (b) on behalf of a buying or selling client on one side of that transaction and as Principal on the other side.

**“Crossing System”** means any automated service provided by a Market Participant which matches or executes client Orders with Orders of:

- (a) the Market Participant;
- (b) other clients of the Market Participant; or
- (c) any other person whose Orders access the automated service;

otherwise than on an Order Book.

**“Cross-Market Combination”** means a transaction consisting of one or more component Market Transactions and one or more transactions in Non-ASX Contracts, in a specific ratio, in respect of which:

- (a) entry into each component Market Transaction and each component transaction in a Non-ASX Contract is contingent on entry into each of the other component Market Transactions and transactions in Non-ASX Contracts;
- (b) the combined transaction has a net price; and
- (c) each transaction is for the same client.

**“CSPA Session State”** means the session on the Trading Platform, known as the Closing Single Price Auction, during which the following parameters apply:

- (a) an Auction is conducted on commencement of the session;
- (b) no Bids and Offers may be entered, amended or cancelled in the Trading Platform;
- (c) Qualifying Bids and Offers that have not been matched in the Auction will be carried through to the next session In Price/Time Priority; and

(d) no trades may be reported.

“**Dealing Rules**” means the Rules and the Market Operating Rules that govern the submission of orders and the execution and reporting of Market Transactions on a Trading Platform.

“**Derivative**” has the meaning given by section 761D of the Corporations Act.

“**Derivative/Cash Combination**” means a transaction consisting of one or more component Cash Market Transactions and one or more component Derivatives Market Transactions, in a specific ratio, in respect of which:

- (a) entry into each component Cash Market Transaction and each component Derivatives Market Transaction is contingent on entry into each other component Cash Market Transaction and Derivatives Market Transaction;
- (b) the combined transaction has a net price; and
- (c) each transaction is for the same client.

“**Derivatives Combination**” means a Derivatives Only Combination, a Derivative/Cash Combination or a Cross-Market Combination.

“**Derivatives Market Contract**” means a Futures Market Contract, an Options Market Contract and any other contract that the Market Operator authorises for trading on a Trading Platform as a Derivatives Market Contract.

“**Derivatives Market Transaction**” means a transaction between Trading Participants for one or more Derivatives Market Contracts.

“**Derivatives Only Combination**” means a transaction which comprises at least two component Derivatives Market Transactions, in a specific ratio, in respect of which:

- (a) entry into each component Derivatives Market Transaction is contingent on entry into each of the other component Derivatives Market Transactions;
- (b) the combined transaction has a net price; and
- (c) each transaction is for the same client.

“**DTR**” means a Representative of the Trading Participant who has been authorised by the Trading Participant to submit Trading Messages to the Trading Platform on behalf of the Trading Participant.

“**DTR identifier**” means a unique code, allocated by the Trading Participant under Rule 2.5.6, that identifies a DTR.

“**Employee**” in relation to a Market Participant includes a director, employee, officer, agent, representative, consultant or adviser of that Market Participant, or an independent contractor who acts for or by arrangement with a Market Participant.

“**ETF**” means a Managed Fund:

- (a) which is listed on the Market or admitted to Trading Status as an AQUA Product or to the AQUA Quote Display Board;

- (b) with power and approval to continuously issue and have quoted on the Market, Equity Securities in the Managed Fund;
- (c) which provides for the issue of new Equity Securities in return for the subscriber transferring to the Managed Fund a portfolio of Securities, [cash, or a combination of Securities and cash](#); and
- (d) for which the price of the Underlying Instrument is continuously disclosed or can be immediately ascertained.

“**ETF Security**” means a Financial Product issued by or provided pursuant to an ETF.

“**Equilibrium Price**” means, in relation to a Product, the price calculated by applying the principles below (to each Product) in the following order until a single price results:

- (a) maximum executable volume—this principle determines the price (or prices) at which the largest possible executable volume is achieved;
- (b) minimum surplus—this principle ascertains the price (or prices) at which the unfilled or unmatched quantity is at a minimum;
- (c) market pressure—this principle ascertains whether the result achieved under the previous principle exists on the buy or sell side of the market; and
- (d) reference price—this principle narrows the potential prices as calculated above and confirms one of the potential prices;
- (e) confirmation occurs by using either:
  - (i) the price of the last on-market trade for that day; or
  - (ii) if no on-market trades have occurred on the Trading Day, the official closing price from the previous Trading Day;
- (f) where a confirmation cannot be achieved (as no on-market trades have ever occurred) the lowest of the narrowed potential prices will become the relevant price.

“**Equity Market**” means a Financial Market, on or through which offers to acquire or dispose of Equity Market Products are made or accepted, the operator of which is licensed under subsection 795B(1) of the Corporations Act.

“**Equity Market Operator**” means an entity that is licensed under subsection 795B(1) of the Corporations Act to operate an Equity Market.

“**Equity Market Product**” means:

- (a) a share in a body;
- (b) a financial product referred to in subparagraph 764A(1)(b)(i) or subparagraph 764A(1)(ba)(i) of the Corporations Act; or
- (c) a right (whether existing or future and whether contingent or not) to acquire, by way of issue, the following under a rights issue:
  - (i) a share covered by paragraph (a); or
  - (ii) a financial product covered by paragraph (b); or

(d) a CHESSE Depository Interest,  
admitted to quotation on ASX.

**“Equity Securities”** means:

- (a) shares in a body corporate or an unincorporated body other than redeemable preference shares which are Loan Securities in accordance with paragraph (c) of the definition of Loan Securities; or
- (b) interests in a managed investment scheme, except those referred to in paragraph (d) of the definition of Loan Securities; or
- (c) renounceable and non-renounceable rights to subscribe for Securities other than Loan Securities; or
- (d) options over unissued Securities other than Loan Securities; or
- (e) convertible notes; or
- (f) any Securities which are determined by the Market Operator to be Equity Securities,

but does not include Options Market Contracts, or Securities determined to be Loan Securities by the Market Operator.

**“Family Company”** means a corporation:

- (a) controlled by the person or the Immediate Family of the person; or
- (b) in respect of which the person is beneficially entitled to more than 50% of the issued capital.

**“Family Trust”** means a trust in which:

- (a) the person or the Immediate Family of the person is the sole or majority beneficiary; or
- (b) the person has the ability to remove the trustee of the trust and replace that trustee with his or her own nominee.

**“Financial Market”** has the meaning given by section 767A of the Corporations Act.

**“Financial Product”** has the meaning given by Division 3 of Part 7.1 of the Corporations Act.

**“Financial Product Advice”** has the meaning given by section 766B of the Corporations Act.

**“Futures Market Contract”** means a contract on the terms of a Futures Series.

**“Futures Market Transaction”** means a Market Transaction for one or more Futures Market Contracts.

**“Futures Option”** means an Options Market Contract in respect of which the Underlying Financial Product is a Futures Market Contract.

**“Futures Series”** means a set of contractual terms on which futures contracts are authorised for trading by the Market Operator.

“**Immediate Family**” in relation to a person, means that person’s spouse and any non-adult children.

“**In Price/Time Priority**” means, in respect of Bids and Offers, in accordance with the following order:

- (a) Bids entered into a Trading Platform are ranked from highest to lowest priced and Offers are ranked from lowest to highest priced;
- (b) Bids entered into a Trading Platform are ranked above Bids entered later at the same price and Offers entered into a Trading Platform are ranked above Offers entered later at the same price; and
- (c) an Order withdrawn from a Trading Platform loses its priority under (a) and (b) and, if re-entered, will be treated as a new Order.

“**Initial Margin**” means, in relation to an Open Contract, an amount of money determined by a Clearing Facility as the initial margin for the Open Contract, in accordance with the Clearing Rules.

“**Issuer**” means, in relation to a Cash Market Product, the legal entity which issues the Cash Market Product.

“**Late Trading Session State**” means the session on the Trading Platform, during which the following parameters apply:

- (a) no Bids and Offers may be entered or amended;
- (b) Bids and Offers remaining from the previous session may be cancelled;
- (c) no Bids or Offers will be automatically matched;
- (d) manual procedures for matching In Price/Time Priority apply;
- (e) allowable trades may be reported.

“**LEPOS**”, or Low Exercise Price Options, means options to:

- (a) buy an agreed number of shares at a specified future date at an exercise price of 1 cent;
- (b) notionally buy an Underlying Index at a specified future date at a strike price of 1 point.

“**Level One Accredited Derivatives Adviser**” means a person who has been accredited under Rule 2.4.7 and whose accreditation is current.

“**Level Two Accredited Derivatives Adviser**” means a person who has been accredited under Rule 2.4.8 and whose accreditation is current.

“**Listed Entity**” means an entity included in the Official List.

“**Listing Rules**” has the meaning given by section 761A of the Corporations Act.

“**Loan Securities**” means:

- (a) debentures, stocks or bonds issued or proposed to be issued by a government; or
- (b) debentures of a body corporate or an unincorporated body; or

- (c) redeemable preference shares which have a fixed and certain date for redemption, other than shares having a participating entitlement to rights or options referred to in paragraphs (c) and (d) of the definition of Equity Securities; or
- (d) interests in a managed investment scheme, relating to a financial or business undertaking or scheme, common enterprise or investment contract, the trustee or representative or responsible entity of which only invests in or acquires one or more of Loan Securities, mortgages and cash; or
- (e) any Securities which are determined by the Market Operator to be Loan Securities, but does not include Options Market Contracts, or Securities determined to be Equity Securities by the Market Operator.

“**Managed Discretionary Account**” means a service with the following features:

- (a) a person makes client contributions;
- (b) the client agrees with the Market Participant that the client’s portfolio assets will:
  - (i) be managed by the Market Participant at its discretion, subject to any limitation that may be agreed, for purposes that include investment;
  - (ii) not be pooled with property that is not the client’s portfolio assets to enable an investment to be made or made on more favourable terms; and
  - (iii) be held by the client unless a beneficial interest but not a legal interest in them will be held by the client; and
- (c) the client and the Market Participant intend that the Market Participant will use client contributions of the client to generate a financial return or other benefit from the Market Participant’s investment expertise.

“**Managed Fund Product**” means a Financial Product issued by or provided pursuant to a Managed Fund.

“**Managed Fund**” means:

- (a) a managed investment scheme which is a registered managed investment scheme pursuant to section 601EB of the Corporations Act or a managed investment scheme which ASIC has exempted from those registration requirements; or
- (b) a foreign company which has the economic features of a managed investment scheme, namely:
  - (i) investors contribute money or money’s worth to acquire rights to benefits produced by the collective investment;
  - (ii) contributions of investors are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for investors holding Financial Products in the collective investment; and
  - (iii) investors holding Financial Products issued in the collective investment do not have day to day control over the operation of the collective investment.



“**Market**” means the market operated by the Market Operator under Australian Market Licence (Australian Stock Exchange Limited) 2002.

“**Market Bid**” means a market bid within the meaning of the Corporations Act and, in respect of an Issuer incorporated or established outside Australia, any similar form of bid.

“**Market Listing Rules**” means the Listing Rules of the Market.

“**Market Maker**” means a Trading Participant registered by the Market Operator as a market maker, which has an obligation to make a market in assigned Classes of Derivatives Market Contracts.

“**Market Operating Rules**” means the Operating Rules of the Market, other than the Market Listing Rules.

“**Market Operator**” means ASX.

“**Market Participant**” means a participant in the Market admitted under the Market Operating Rules.

“**Market Transaction**” means a transaction for one or more Products, entered into on a Trading Platform or reported to the Market Operator under the Market Operating Rules.

“**National Voiceline System**” means a dedicated communications service supplied to subscribers by the Market Operator which provides access to voice announcements originating from the Market Operator.

“**NGF**” has the meaning given by section 880B of the Corporations Act.

“**Non-ASX Contract**” means a contract, Underlying Commodity, Underlying Instrument or Underlying Financial Product that is available for trading on a Non-ASX Market.

“**Non-ASX Market**” means a market operated by a person other than ASX.

“**Off-Market Bid**” means an off-market bid within the meaning of the Corporations Act and in respect of an Issuer incorporated or established outside Australia, any similar form of bid.

“**Offer**” means:

- (a) in relation to a Cash Market Product, a price and quantity of the Cash Market Products to be sold; and
- (b) in relation to a Derivatives Market Contract, means an offer to enter into a Derivatives Market Contract in respect of the relevant Contract Series as Seller.

“**Offer Period**” means:

- (a) in relation to a Takeover Bid, the period for which offers under the bid remain open; or
- (b) in relation to a Scheme, the period from the date an announcement of intention to propose a Scheme is first received by the Market until the date on which the Scheme is effected.

“**Official List**” means the official list of the Market.

**“Official Quotation”**, in relation to Financial Products, means admitted to quotation by the Market Operator under the Market Listing Rules.

**“On-Market”**, in relation to a transaction for the purpose of Chapter 6 of the Corporations Act, means a transaction by a Trading Participant for the acquisition of Cash Market Products which is:

- (a) effected during Trading Hours by matching of Trading Messages on a Trading Platform (other than a Crossing) in accordance with the Market Operating Rules; or
- (b) a Crossing effected during Trading Hours (excluding a time during which an auction is conducted on the Market) in accordance with the Market Operating Rules if:
  - (i) the Crossing is arranged solely by a Trading Participant and is not prearranged between the principals to the transaction; and
  - (ii) each principal is indifferent as to the identity of the other,
 

where:

    - (iii) the expression “principal” includes the principal’s associates, advisers and advisers’ associates; and
    - (iv) the expression “adviser” does not include a person only providing services to the principal as a broker,
 

but does not include:
- (c) Special Crossings; and
- (d) Crossings (other than Special Crossings) that are effected outside of Trading Hours.

**“Open Contract”** means a contract, on the terms of a Contract Series, which is registered with a Clearing Facility under the Clearing Rules and any contract which replaces that contract through the transfer, adjustment or settlement to market of that contract under the Clearing Rules.

**“Operating Rules”** has the meaning given by section 761A of the Corporations Act.

**“Open Interface”** means the electronic protocol and message structure used to provide a mechanism for Trading Participants to access a Trading Platform which enables a Trading Participant to submit Trading Messages.

**“Open Interface Device”** means a logical connection or session with the gateway using the Open Interface, and includes a session maintained by a Trader Workstation.

**“Open Session State”** means the session on the Trading Platform during which the following parameters apply:

- (a) an Auction is conducted on commencement of the session;
- (b) Qualifying Bids and Offers that have not been matched in the Auction on transition to the session retain their ranking In Price/Time Priority;
- (c) Bids and Offers may be entered, amended or cancelled in the Trading Platform;
- (d) Bids and Offers are matched In Price/Time Priority on a continuous basis; and

(e) allowable trades may be reported.

**“Options Market Contract”** means a contract on the terms of an Option Series.

**“Options Market Transaction”** means a Market Transaction for one or more Options Market Contracts.

**“Option Series”** means a set of contractual terms on which options are authorised for trading by the Market Operator.

**“Order”** means:

- (a) in relation to Cash Market Products, an instruction to purchase or sell Cash Market Products, or an instruction to amend or cancel a prior instruction to purchase or sell Cash Market Products; and
- (b) in relation to Derivatives Market Contracts, an instruction to enter into a Derivatives Market Transaction, or an instruction to amend or cancel a prior instruction to enter into a Derivatives Market Transaction.

**“Order Book”** means an electronic list of Orders, maintained by or on behalf of an Equity Market Operator, on which those Orders are matched with other Orders in the same list.

**“Own Account”** has the meaning given by Rule 5.1.1.

**“Other Regulated Entities”** means entities prescribed by regulations made for the purposes of paragraph 798H(1)(c) of the Corporations Act, that must comply with these Rules.

**“Overseas Broker”** means a broker whose principal place of business is located outside Australia.

**“Partly Paid Security”** means a Quoted Product for which the holder may be liable to pay a call or instalment in accordance with the terms of issue and for which an amount remains unpaid, but does not include a Quoted Product issued by a no liability company.

**“Prescribed Person”** means, in relation to a Market Participant:

- (a) an Employee, a director, a partner, or Responsible Executive of the Market Participant;
- (b) a Controller of the Market Participant or a Related Body Corporate of that Controller;
- (c) the Immediate Family of a person referred to in paragraphs (a) or (b);
- (d) a Family Company and a Family Trust of a person referred to in paragraphs (a) to (c); and
- (e) where a Market Participant or a person referred to in paragraphs (a) to (d) is a body corporate, anybody corporate or other entity controlled by that body corporate.

**“Principal”**, in the context of “as Principal” has the meaning given to that term in Rule 3.2.5.

**“Principal Trader”** means a Market Participant with Trading Permission for one or more Products which limits it to trading on its own behalf.

**“Product”** means a Cash Market Product or a Derivatives Market Contract, as applicable.

“**Qualifying Bid or Offer**” means, in relation to an Auction, a Bid or Offer in the Trading Platform at the commencement of the Auction.

“**Quoted Product**” means a Financial Product that has been granted Official Quotation.

“**Recognised Overseas Stock Exchange**” means a Recognised Stock Exchange whose principal place of business is located outside Australia.

“**Recognised Stock Exchange**” has the meaning given by the Market Operating Rules.

“**Related Body Corporate**” has the meaning given by section 50 of the Corporations Act.

“**Related Party**”:

- (a) in relation to a body corporate:
  - (i) has the meaning given by section 228 of the Corporations Act; or
  - (ii) means a Substantial Holder of the body corporate;
- (b) in relation to a trust, which is not a registered management investment scheme, means the management company, trustee and their related parties within the meaning of section 228 of the Corporations Act;
- (c) in relation to a trust which is a registered managed investment scheme, means the responsible entity and a related party of the responsible entity under section 228 of the Corporations Act, as modified by section 601LA of the Corporations Act;
- (d) in relation to a person, means:
  - (i) his or her spouse, de facto spouse, parent, son, or daughter, or a spouse or de facto spouse of that person;
  - (ii) an entity over which one or more of the persons referred to in subparagraph (i) has control;
  - (iii) an entity that he or she controls, or its holding company or which is controlled by the holding company;
  - (iv) a person who acts, or proposes to act, in concert with anyone referred to above;
  - (v) a person who was a related party in the previous 6 months, or who would be a related party in the future, under the tests in section 228 of the Corporations Act (applied with any necessary adaptation).

“**Relative**”, in relation to a person, means the spouse, parent or remoter lineal ancestor, son or daughter or remoter issue, or brother or sister of that person.

“**Relevant Activities**” means, in relation to a particular Responsible Executive, the operations and processes of that part of the Market Participant’s business which the document given to ASIC under subrule 2.1.2(1) or (2), or notification given to ASIC under subrule 2.1.2(3), identifies as being under the supervision of that Responsible Executive, while that Responsible Executive remains responsible in respect of that part of the business.

“**Relevant Clearing Participant**” means, in relation to a Trading Participant:

- (a) where the Trading Participant is not itself a Clearing Participant and has a third party clearing arrangement with only one Clearing Participant to clear all of its Market Transactions in a class of Product, that Clearing Participant; and
- (b) where the Trading Participant is itself a Clearing Participant and clears all of its Market Transactions in a class of Products, itself; and
- (c) where the Trading Participant has third party clearing arrangements with more than one Clearing Participant, or is itself a Clearing Participant and has third party clearing arrangements with other Clearing Participants to clear its Market Transactions in a class of Product, the Clearing Participant which it has identified through the Open Interface Device in respect of the Market Transaction.

“**Renewal Date**” means the date notified by ASIC to the Market Participant under paragraph 2.4.9(2)(b), subrule 2.4.14(2) or paragraph 2.4.20(5)(b), as the date on which a person will cease to be an Accredited Adviser, unless their accreditation is renewed before that date under subrule 2.4.14(2) or 2.4.15(3).

“**Renewal Period**” means the period that commences 60 days prior to the Renewal Date and ends 7 days prior to the Renewal Date.

“**Reportable Short Sale Order**” means an Order to sell Section 1020B Products which, if executed, would result in a Reportable Short Sale Transaction.

“**Reportable Short Sale Transaction**” means a transaction for the sale of Section 1020B Products for which the seller is required to comply with subsection 1020AB(3) of the Corporations Act.

“**Representative**” has the meaning given by section 910A of the Corporations Act.

“**Responsible Executive**” means at any time, in relation to a Market Participant, an individual who is shown as having executive responsibility for the supervision and control of all or part of the business of that Market Participant in the document provided to ASIC under subrule 2.1.2(1) or (2) or the notification provided to ASIC under subrule 2.1.2(3).

“**Retail Client**” has the meaning given by section 761G of the Corporations Act.

“**Rules**” means these market integrity rules.

“**Scheme**” means:

- (a) a compromise or arrangement within the meaning of section 411 of the Corporations Act; and
- (b) in respect of an Issuer incorporated or established outside Australia, any similar form of compromise or arrangement under the law of the jurisdiction of incorporation or establishment,

which has a similar result to an Off-Market Bid or Market Bid.

“**Section 1020B Products**” has the meaning given by subsection 1020B(1) of the Corporations Act.

**“Securities Lending Arrangement”** has the meaning given by subsection 1020AA(1) of the Corporations Act.

**“Security”** or **“security”** means:

- (a) a “security” within the meaning of section 761A of the Corporations Act; or
- (b) a managed investment product.

**“Seller”** means, in relation to a Derivatives Market Transaction, the Trading Participant whose sell or offer instruction, order or other Trading Message has resulted in the Derivatives Market Transaction being entered into, whether or not in connection with any other Crossing, Derivatives Market Transaction or any transaction in any Cash Market Product or Non-ASX Contract and includes the writer of an Options Market Contract.

**“Settlement Facility”** means, in relation to a Market Transaction, the clearing and settlement facility, within the meaning of section 761A of the Corporations Act, through which the Market Transaction has been or will be settled.

**“Settlement Participant”** means a person admitted as a participant under the Settlement Rules.

**“Settlement Rules”** means the operating rules, procedures, practices, directions, decisions and requirements of a Settlement Facility.

**“Special Crossing”**:

- (a) in relation to an Equity Market Product, means a block trade or a large portfolio trade, within the meaning of the Competition Market Integrity Rules, entered into other than by matching of Orders on an Order Book of an Equity Market; and
- (b) in relation to a Product other than an Equity Market Product, has the meaning given by the Market Operating Rules.

**“Standard Combination”** has the meaning given by the Market Operating Rules.

**“Structured Product”** means a Security or Derivative:

- (a) which gives the holder financial exposure to the performance of one or more Underlying Instruments;
- (b) the value of which is linked to the performance of those Underlying Instruments; and
- (c) whereby investors do not have day to day control over the operation of the entity which issues or provides the Security or Derivative.

**“Substantial Holder”**:

- (a) for the purposes of Rule 3.2.5, when used to refer to a Substantial Holder in a corporation, means a person who has or would have a substantial holding if Part 6C of the Corporations Act applied to that corporation; and
- (b) for the purposes of any other Rule includes a reference to:
  - (i) a person who has a relevant interest in not less than 5% of a class of non-voting shares of the relevant company or its holding company; and

- (ii) each person who has a relevant interest in voting shares and non-voting shares of the relevant company or its holding company and whose aggregate holdings exceed 5% in number of the voting shares on issue of the relevant company or its holding company.

“**Tailor-Made Combination**” has the meaning given by the Market Operating Rules.

“**Takeover Bid**” means an Off-Market Bid or Market Bid.

“**Takeover Offer**” means:

- (a) an offer under a Takeover Bid and, in respect of an Issuer incorporated or established outside Australia, any similar form of offer; and
- (b) a Scheme.

“**Target**” means:

- (a) in relation to an Off-Market Bid or Market Bid, a target within the meaning of the Corporations Act and, in respect of an Issuer incorporated or established outside Australia, the equivalent entity; and
- (b) in relation to a Scheme, the entity or entities in a similar position to a target.

“**Terms of Issue**” means, in relation to Warrants, rights, conditions and obligations of the Warrant-Issuer and the holder of the Warrant.

“**Trader Workstation**” means a personal computer with Trader Workstation Software installed.

“**Trader Workstation Software**” means the software product provided by the Market Operator or a subsidiary for use by Trading Participants which provides a Trader Workstation with the functionality necessary to use the Open Interface for trading on a Trading Platform.

“**Trading Day**” means a day on which Market Transactions may be entered into by Trading Participants on a Trading Platform.

“**Trading Hours**”, in relation to the Market, means the times during which:

- (a) Orders may be entered, amended or cancelled on the Order Books of the Market; and
- (b) Orders are matched and transactions are executed on a continuous basis on the Market,

and includes a time during which an auction is conducted on the Market.

“**Trading Messages**” means those messages submitted into a Trading Platform relating to trading functions, such as Orders, amendment or cancellation of Orders and the reporting or cancellation of Market Transactions on the Trading Platform.

“**Trading Participant**” means a Market Participant which has Trading Permission in respect of one or more Products.

“**Trading Permission**” means the right to submit Trading Messages in a Trading Platform.

**“Trading Platform”** means a facility made available by the Market Operator to Trading Participants for the entry of Trading Messages, the matching of Orders, the advertisement of invitations to trade and the reporting of transactions.

**“Trading Status”** means authorisation by the Market Operator for a CGS Depository Interest, a Warrant or AQUA Product to be traded on the Market.

**“Trading Suspension”** means a halt or suspension in trading on an Equity Market pursuant to the exercise of a power by an Equity Market Operator under the Operating Rules of the Equity Market, during which Orders may not be matched or executed on the relevant Equity Market, but does not include a halt or suspension caused by a technical problem (including a power outage) affecting the technical infrastructure used by the operator of the Equity Market for the purposes of receiving Trading Messages, matching and executing Orders and reporting transactions.

**“Training Register”** means the list, published on ASIC’s website, of training courses and assessment services that meet ASIC’s training requirements under Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146).

**“Underlying Financial Product”** means, in relation to a Derivatives Market Contract, the Financial Product underlying that contract.

**“Underlying Commodity”** means, in relation to a Derivatives Market Contract, the commodity which underlies that contract.

**“Underlying Index”** means, in relation to a Derivatives Market Contract, the index which underlies that contract.

**“Underlying Instrument”** means:

- (a) in relation to Option Series and Futures Series, the instrument which underlies that Option Series or Futures Series;
- (b) in relation to Warrants means the Financial Product, index, foreign or Australian currency or commodity which underlies that Warrant; and
- (c) in relation to AQUA Products means the Financial Product, index, foreign or Australian currency, commodity or other point of reference for determining the value of the AQUA Product.

**“Underlying Market”** means, in relation to a Derivatives Market Contract, a market in the instruments, commodities, securities or other things which underlie the Derivatives Market Contract.

**“Unprofessional Conduct”** includes:

- (a) conduct which amounts to impropriety affecting professional character and which is indicative of a failure either to understand or to practise the precepts of honesty or fair dealing in relation to other Market Participants, clients or the public;
- (b) unsatisfactory professional conduct, where the conduct involves a substantial or consistent failure to reach reasonable standards of competence and diligence; and



- (c) conduct which is, or could reasonably be considered as likely to be, prejudicial to the interests of the Market Operator or Market Participants,

by a Market Participant, or an Employee, whether in the conduct of the Market Participant's business as a Market Participant or in the conduct of any other business, and need not involve a contravention of these Rules or any law.

**“Warrant”** means:

- (a) a financial instrument which gives the holder of the instrument the right:
- (i) to acquire the Underlying Instrument; or
  - (ii) to require the Warrant-Issuer to acquire the Underlying Instrument;
  - (iii) to be paid by the Warrant-Issuer an amount of money to be determined by reference to the amount by which a specified number is greater or less than the number of an index; or
  - (iv) to be paid by the Warrant-Issuer an amount of money to be determined by reference to the amount by which the price or value of the Underlying Instrument is greater than or less than a specified price or value,
- in accordance with the Terms of Issue and the Market Operating Rules that apply to Warrant-Issuers; or
- (b) any other Financial Product that is a “warrant” within the meaning given to that term in Corporations Regulation 1.0.02 and which the Market Operator notifies Trading Participants is a Warrant.

**“Warrant-Issuer”** means an entity approved by the Market Operator to issue Warrants.

**“Wholesale Client”** has the meaning given by subsection 761G(4) of the Corporations Act.

**“Wholesale Client Agreement”** means the agreement between a Trading Participant and a client lodged with a Clearing Facility in accordance with paragraph 3.1.12(d) and Rule 3.1.13.

Note: There is no penalty for this Rule.

## Chapter 2: Participants and Representatives

### Part 2.1 Management requirements

#### 2.1.1 Management structure

(1) A Market Participant must, in relation to its conduct, and that part of its business that it conducts, on or in relation to the Market, wherever the conduct occurs or the business is located and regardless of the number of offices operated or intended to be operated by the Market Participant, have appropriate management structures in place to ensure that:

- (a) it has operations and processes in place that are reasonably designed, implemented, and that function, so as to achieve compliance by the Market Participant with these Rules and the Market Operating Rules;
- (b) the design, implementation, functioning and review of those operations and processes are subject to the supervision of one or more Responsible Executives; and
- (c) each Responsible Executive has sufficient seniority and authority within the Market Participant to exert control, leadership, influence and supervision over those operations and processes.

(2) A Market Participant must keep accurate records of its management structure and its allocation of responsibilities among its Responsible Executives.

Maximum penalty: \$1,000,000

#### 2.1.2 Notification of management structure

(1) A Market Participant that is a Market Participant as at the Commencement Date must give to ASIC a document that sets out its management structure and its allocation of its responsibilities among its Responsible Executives, within 3 months of the Commencement Date.

(2) A Market Participant that was not a Market Participant as at the Commencement Date must give to ASIC a document that sets out its management structure and its allocation of its responsibilities among its Responsible Executives, within 10 Business Days of becoming a Market Participant.

(3) A Market Participant that has given to ASIC a document under subrule (1) or (2) must notify ASIC in writing, within 10 Business Days, of any significant change in the management structure or its allocation of its responsibilities among its Responsible Executives shown in that document.

Maximum penalty: \$20,000

### 2.1.3 Supervisory procedures

A Market Participant must have appropriate supervisory policies and procedures to ensure compliance by the Market Participant and each person involved in its business as a Market Participant with these Rules, the Market Operating Rules and the Corporations Act.

Maximum penalty: \$1,000,000

### 2.1.4 Persons involved in the business—Good fame and character requirement

(1) A Market Participant must ensure that any Employee or other person who is or will be involved in the business of the Market Participant in connection with the Market and, in the case of a body corporate, each director or Controller, is of good fame and character and high business integrity having regard to subrule (2).

(2) In assessing whether a person is of good fame and character and high business integrity for the purpose of subrule (1):

- (a) a person will not be of good fame and character if he or she is disqualified from managing a corporation under the Corporations Act or under the law of another country, or is an insolvent under administration or its equivalent in another country; and
- (b) a person may not be of good fame and character or high business integrity if the person has been:
  - (i) convicted of any offence;
  - (ii) disciplined or adversely mentioned in a report made by, or at the request of, any government or governmental authority or agency;
  - (iii) adversely mentioned in a report made by, or at the request of, the Market Operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility; or
  - (iv) disciplined by the Market Operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility.

Maximum penalty: \$1,000,000

### 2.1.5 Unprofessional Conduct

(1) A Market Participant must not engage in Unprofessional Conduct.

(2) A Market Participant must ensure that its Responsible Executives do not engage in Unprofessional Conduct.

Maximum penalty: \$1,000,000

## 2.1.6 Responsibility for individuals involved in business

A Market Participant is responsible for all actions and omissions of its Employees.

Note: There is no penalty for this Rule.

## Part 2.2 Insurance and information requirements

### 2.2.1 Insurance requirements—Obligation to have insurance

(1) Subject to Rule 2.2.2, every Market Participant must, where the Market Participant acts for any person other than itself or a Related Body Corporate, take out and maintain, at all times, a professional indemnity (or equivalent) insurance policy that the Market Participant determines (acting reasonably) to be adequate having regard to the nature and extent of the business carried on by the Market Participant in connection with its business as a Market Participant and the responsibilities and risks assumed or which may be assumed by the Market Participant in connection with that business.

(2) The professional indemnity (or equivalent) insurance referred to in subrule (1) must include insurance against a breach of duty the Market Participant owes in a professional capacity, whether owed in contract or otherwise at law, arising from any act or omission of the Market Participant and its Employees.

Maximum penalty: \$100,000

### 2.2.2 Insurance requirements—Insurance with Related Body Corporate

If the insurance referred to in Rule 2.2.1 is provided by a Related Body Corporate, the Market Participant must provide ASIC with the following information by no later than 10 Business Days after the issue or renewal of the insurance:

- (a) the name of the Related Body Corporate and a copy of evidence sufficient to establish that it is a Related Body Corporate; and
- (b) confirmation from the Related Body Corporate that it is the insurer or the self-insurer covering and indemnifying the Market Participant against the liabilities referred to in Rule 2.2.1 and a copy of the certificate evidencing the insurance.

Maximum penalty: \$20,000

### 2.2.4 Insurance requirements—Notification of claims

In relation to any liability or potential liability of the type referred to in Rule 2.2.1, a Market Participant must immediately notify ASIC of any notification to its insurer of any claim, potential claim or circumstance that might give rise to a claim and must include the following details:

- (a) any circumstance which is likely to give rise to a claim or potential claim against the Market Participant;

- (b) the receipt of a notice from any person of any intention to make a claim or potential claim against the Market Participant; and
- (c) the details of any claim, potential claim or circumstance against the Market Participant, including the gross contingent liability, the net contingent liability, the full name of the Market Participant's insurer and the date the Market Participant notified its insurer of the claim, potential claim or circumstance.

Maximum penalty: \$20,000

## **2.2.5 Information requirements—Obligation to notify of legal proceedings**

If:

- (a) a Market Participant commences legal proceedings against, or has legal proceedings commenced against it by, another Market Participant, a Clearing Participant, a regulatory authority or a client in connection with their role as a Market Participant; and
- (b) those legal proceedings may affect the operations of the Market Operator, or the interpretation of these Rules or the Market Operating Rules,

the Market Participant must, upon commencing or upon becoming aware of the proceedings, immediately notify ASIC and the Market Operator in writing of the particulars of the proceedings.

Maximum penalty: \$100,000

## **Part 2.3 Responsible Executives**

### **2.3.1 Appointment or resignation of Responsible Executives**

(1) A Market Participant must notify ASIC within 10 Business Days if the Market Participant appoints a new Responsible Executive, or if a person ceases to be a Responsible Executive of the Market Participant.

(2) A Market Participant must not appoint a person as a Responsible Executive unless:

- (a) the person has skills, knowledge and experience that are appropriate having regard to the supervisory role that the person will perform as a Responsible Executive in the business of the Market Participant; and
- (b) if the person was a Responsible Executive prior to the Commencement Date:
  - (i) the person had satisfied the requirements of rule 3.6.5 of the operating rules in effect on the day immediately preceding the Commencement Date; and
  - (ii) the Market Participant is satisfied on reasonable grounds that the person has completed an appropriate level of Compliance Education from the date the person passed the examination as required under the rule referred to in subparagraph (i) to the date the Market Participant appoints the person as Responsible Executive;

- (c) if the person becomes a Responsible Executive for the first time on or after the Commencement Date, the person has:
  - (i) attained a mark of at least 65% in an examination approved by ASIC under subrule (3), in the 12 months preceding the date the Market Participant appoints the person as a Responsible Executive; and
  - (ii) satisfied the Compliance Education Requirements from the date the person passed the examination as referred to in subparagraph (i) to the date the Market Participant appoints the person as a Responsible Executive, pro-rata to the number of full months in that period.

(3) For the purposes of subparagraph (2)(c)(i), ASIC may approve, in writing, one or more examinations that, in the opinion of ASIC, assess knowledge and competency in the application of the provisions of these Rules, the Market Operating Rules and the Corporations Act that govern the operation of the Market and are relevant to the role performed by Responsible Executives.

Maximum penalty: \$20,000

### **2.3.2 Ongoing responsibilities of Market Participants in relation to Responsible Executives**

A Market Participant must ensure that each of its Responsible Executives:

- (a) supervises the design and implementation activities and the functioning and review of the operations and processes referred to in Rule 2.1.1 for the Relevant Activities of that Responsible Executive;
- (b) is accountable to the Market Participant for the effective design, implementation, functioning and review of the operations and processes referred to in paragraph (a).

Maximum penalty: \$20,000

### **2.3.3 Annual review and representation to Market Participant**

(1) A Market Participant must ensure that each of its Responsible Executives:

- (a) maintains the currency of his or her knowledge of these Rules, the Market Operating Rules and the Corporations Act related to the business that the Market Participant conducts in the Market;
- (b) by 10 July each year, performs a review as at 30 June of that year, including all matters reasonably considered by the Responsible Executive to be necessary in the circumstances, of the supervision and control procedures involved in the business of the Market Participant and other relevant documentation concerning the Market Participant's compliance with these Rules and the Market Operating Rules for the 12 month period ending on 30 June that year;
- (c) by 10 July each year, determines whether, based on the enquiries referred to in paragraph (b), the controls over the operations and processes of the Relevant Activities

have been, during the period referred to in paragraph (b), and continue to be, reasonably designed, implemented and functioning to achieve compliance by the Market Participant with these Rules and the Market Operating Rules;

- (d) by 10 July each year, provides a signed and dated representation to the Market Participant as to whether:
- (i) the requirements of paragraphs (a) and (b) have been met for the period referred to in paragraph (b); and
  - (ii) the controls over the operations and processes of the Relevant Activities have been, for the period referred to in paragraph (b), and continue to be, reasonably designed, implemented and functioning to achieve compliance by the Market Participant with the Market Operating Rules and these Rules.

(2) The Market Participant must retain copies of the representation referred to at paragraph (1)(d), and of the documentation concerning the Market Participant's compliance with these Rules and the Market Operating Rules on which the representation is based, for 7 years from the date the representation is provided to the Market Participant.

Maximum penalty: \$20,000

#### **2.3.4 Continuing education requirements for Responsible Executives**

(1) Subject to subrule (2), a Market Participant must ensure that, during the period from 1 July each year until 30 June the following year, each of its Responsible Executives meets the Compliance Education Requirements pro-rata to the number of complete months during that period in which that person is a Responsible Executive of the Market Participant.

(2) For the period that commences on the Commencement Date and ends on 1 July in the following year, the Market Participant must ensure that each person that was a Responsible Executive of the Market Participant on the Commencement Date meets the Compliance Education Requirements pro-rata to the number of complete months in that period.

Maximum penalty: \$20,000

#### **2.3.5 Annual continuing education and compliance self-assessment**

(1) Subject to subrule (2), a Market Participant must provide a written notification to ASIC by 31 July each year that contains the following information:

- (a) the name of each person who was a Responsible Executive of the Market Participant during the period from 1 July in the preceding calendar year to 30 June in the calendar year in which the notification is provided;
- (b) if the person was a member of a professional body or bodies during the period referred to in paragraph (a), the name of that body or those bodies;
- (c) a statement in relation to each person that the Market Participant confirms that, during the period referred to in paragraph (a), the person:

- (i) has satisfied; or
- (ii) has not satisfied,

as the case may be, each of the requirements of subrule 2.1.4(1) (good fame and character), paragraphs 2.3.1(2)(a) and (b) or (c) (skills, knowledge, experience and qualifications), subrule 2.1.5(2) (Unprofessional Conduct), paragraph 2.3.3(1)(d) (annual representation) and Rule 2.3.4 (continuing education), while the person was a Responsible Executive of the Market Participant during that period;

- (d) if subparagraph (c)(ii) applies, an explanation of the reason that the person has not satisfied the requirement.

(2) A notification provided under subrule (1) prior to 1 August 2011 need only relate to the period from the Commencement Date to 30 June 2011.

(3) The Market Participant must retain copies of the records upon which the notification referred to in subrule (1) is based for 7 years from the end of the period to which the notification relates.

Maximum penalty: \$20,000

## Part 2.4 Retail Client Adviser Accreditation

### 2.4.1 Accreditation required

(1) A Market Participant must ensure that each of its Representatives who provides Financial Product Advice to a Retail Client in relation to:

- (a) Options Market Contracts;
- (b) Futures Market Contracts; or
- (c) Warrants,

holds the relevant accreditation required by these Rules.

(2) A Market Participant must not, and must ensure that a Representative does not, hold himself or herself out as holding a type of accreditation under these Rules if they do not hold that type of accreditation.

(3) A person:

- (a) accredited as a Level One Accredited Derivatives Adviser under the Rule 2.4.7 of the ASIC Market Integrity Rules (Chi-X Australia Market) 2011 is a Level One Accredited Derivatives Adviser under these Rules;
- (b) accredited as a Level Two Accredited Derivatives Adviser under the Rule 2.4.8 of the ASIC Market Integrity Rules (Chi-X Australia Market) 2011 is a Level Two Accredited Derivatives under these Rules.

Maximum penalty: \$100,000



## 2.4.2 Extent of advice to clients—Level One Accredited Derivatives Adviser

(1) A Market Participant must ensure that each of its Representatives who provides Financial Product Advice to a Retail Client in relation to:

- (a) taking Options Market Contracts (other than Futures Options);
- (b) writing Options Market Contracts (other than Futures Options), but only for the purpose of closing out a position or writing Covered Call Options under paragraph (e);
- (c) subscribing for and buying and selling Warrants;
- (d) exercising Warrants and Options Market Contracts (other than Futures Options); and
- (e) the Covered Call Option writing strategies as set out in Rule 2.4.3,

is accredited as a Level One Accredited Derivatives Adviser or a Level Two Accredited Derivatives Adviser.

(2) A Market Participant must ensure that each of its Representatives who is only accredited as a Level One Accredited Derivatives Adviser does not advise or make recommendations in relation to LEPOs.

Maximum penalty: \$100,000

## 2.4.3 Covered Call Option Strategy

(1) For the purposes of Rule 2.4.2, “a Covered Call Option” writing strategy entails either:

- (a) a client who already owns Underlying Financial Products in a particular Class writing Call Options over those Underlying Financial Products up to the number of Underlying Financial Products which the client owns and either prior to, or simultaneously with writing the Call Options, providing to the Clearing Facility those Underlying Financial Products as cover for the written Call Option obligations; or
- (a) a client buying a particular Class of Underlying Financial Products and simultaneously writing Call Options over those Underlying Financial Products on the understanding that the client will provide, to the Clearing Facility, within 3 Trading Days of entering into the strategy, the simultaneously purchased Underlying Financial Products as cover for the written Call Option obligations.

(2) For the purposes of subrule (1), “**Call Option**” means an Options Market Contract that gives the taker a right, but not an obligation, to buy the Underlying Financial Products.

Note: There is no penalty for this Rule.

## 2.4.4 Extent of advice to clients—Level Two Accredited Derivatives Adviser

(1) A Market Participant must ensure that each of its Representatives who provides Financial Product Advice to a Retail Client in relation to:

- (a) taking, writing and exercising all Derivatives Market Contracts (other than Futures Market Contracts and Futures Options);

- (b) subscribing for, buying, selling and exercising Warrants;
- (c) all trading strategies relating to Derivatives Market Contracts (other than Futures Market Contracts and Futures Options); and
- (d) all trading strategies relating to Warrants,

is accredited as a Level Two Accredited Derivatives Adviser.

(2) For the avoidance of doubt, a person accredited as a Level Two Accredited Derivatives Adviser may advise and make recommendations in relation to the Products and strategies set out in Rules 2.4.2 and 2.4.3.

Maximum penalty: \$100,000

#### **2.4.5 Extent of advice to clients—Accredited Futures Adviser**

A Market Participant must ensure that each of its Representatives who provides Financial Product Advice to Retail Clients in relation to:

- (a) taking, writing and exercising Futures Market Contracts;
- (b) taking, writing and exercising Futures Options;
- (c) all trading strategies relating to Futures Market Contracts; and
- (d) all trading strategies relating to Futures Options,

is accredited as an Accredited Futures Adviser.

Maximum penalty: \$100,000

#### **2.4.6 Accreditation—Accredited Futures Adviser**

(1) ASIC may, subject to any conditions ASIC considers appropriate, accredit a person as an Accredited Futures Adviser for a period of time if:

- (a) the person is a Representative of a Market Participant and the Market Participant nominates the person to be an Accredited Futures Adviser under subrule (2);
- (b) the person:
  - (i) is a Level Two Accredited Derivatives Adviser;
  - (ii) has successfully completed an educational module or subject, or series of educational modules or subjects, approved by ASIC in accordance with subrule (4);
- (c) the person has read and understood:
  - (i) these Rules;
  - (ii) the Market Operating Rules; and
  - (iii) other reading materials approved by ASIC in accordance with subrule (4); and

(d) ASIC has no reason to believe that the person does not have the requisite skill, knowledge and integrity to give Financial Product Advice of the kind covered by Rule 2.4.5.

(2) A Market Participant may nominate a person to be an Accredited Futures Adviser by submitting a written application to ASIC that includes:

- (a) the full name and date of birth of the applicant, a statement that the applicant is a Representative of the Market Participant, and a description of the nature of the relationship of the applicant to the Market Participant (for example, employee);
- (b) the name, business address and AFSL number of the Market Participant nominating the applicant to be an Accredited Futures Adviser;
- (c) the name, position and contact telephone number of the person referred to in subrule (3);
- (d) a declaration, signed by the applicant, that the applicant has met the requirements of paragraphs (1)(b) and (c); and
- (e) if subparagraph (1)(b)(ii) applies, evidence that the applicant has met the requirements of that subparagraph.

(3) A director, partner, Responsible Executive or Compliance Manager of the Market Participant must sign and date the application referred to in subrule (2).

(4) For the purposes of paragraphs (1)(b) and (c), ASIC may approve, in writing, educational modules, subjects and reading materials that are relevant to Financial Product Advice of the kind covered by Rule 2.4.5.

Note: There is no penalty for this Rule.

## **2.4.7 Accreditation—Level One Accredited Derivatives Adviser**

(1) ASIC may, subject to any conditions ASIC considers appropriate, accredit a person as a Level One Accredited Derivatives Adviser for a period of time if:

- (a) the person is a Representative of a Market Participant and the Market Participant nominates the person to be a Level One Accredited Derivatives Adviser under subrule (2);
- (b) the person:
  - (i) unless the person is applying for, or has been granted, an exemption under subrule 2.4.11(1), has obtained a score of 80% or more for an Accreditation Examination for Level One Accredited Derivatives Advisers approved by ASIC in accordance with subrule (4);
  - (ii) has successfully completed an educational module or subject, or a series of educational modules or subjects, approved by ASIC in accordance with subrule (4); and
- (c) ASIC has no reason to believe that the person does not have the requisite skill, knowledge and integrity to provide Financial Product Advice of the kind covered by Rules 2.4.2 and 2.4.3.

(2) A Market Participant may nominate a person to be a Level One Accredited Derivatives Adviser by submitting a written application to ASIC that includes:

- (a) the full name, date of birth, business address and email address of the applicant, a statement that the applicant is a Representative of the Market Participant and a description of the nature of the relationship of the applicant to the Market Participant (for example, employee);
  - (b) the name, business address and AFSL number of the Market Participant nominating the person to be a Level One Accredited Derivatives Adviser;
  - (c) the name, position and contact telephone number of the director, partner, Responsible Executive or Compliance Manager of the Market Participant referred to in subrule (3);
  - (d) unless the person has been granted, or is applying for, an exemption under subrule 2.4.11(1), a declaration by the Market Participant that the applicant meets the requirements of paragraph (1)(b);
  - (e) if subparagraph (1)(b)(ii) applies, evidence that the applicant has successfully completed the educational subject or module, or series of educational subjects or modules, referred to in that subparagraph; and
  - (f) an acknowledgement by the Market Participant that accreditation as a Level One Accredited Derivatives Adviser will only authorise the applicant to provide Financial Product Advice of the kind covered by Rules 2.4.2 and 2.4.3.
- (3) A director, partner, Responsible Executive or Compliance Manager of the Market Participant must sign and date the application referred to in subrule (2).
- (4) For the purposes of subrule (1), ASIC may approve examinations, educational modules or subjects, or a series of educational modules or subjects, that are relevant to Financial Product Advice of the kind covered by Rules 2.4.2 and 2.4.3.

Note: There is no penalty for this Rule.

#### **2.4.8 Accreditation—Level Two Accredited Derivatives Adviser**

- (1) ASIC may, subject to any conditions ASIC considers appropriate, accredit a person as a Level Two Accredited Derivatives Adviser for a period of time if:
- (a) the person is a Representative of a Market Participant and the Market Participant nominates the person as a Level Two Accredited Derivatives Adviser in accordance with subrule (2);
  - (b) unless the person is applying for, or has been granted, an exemption under subrule 2.4.11(1), the person has obtained a score of 80% or more for each of the Accreditation Examinations for Level One Accredited Derivatives Advisers and Level Two Accredited Derivatives Advisers approved by ASIC in accordance with subrule (4); and
  - (c) ASIC has no reason to believe that the person does not have the requisite skill, knowledge and integrity to provide Financial Product Advice of the kind covered by Rules 2.4.2, 2.4.3 and 2.4.4.
- (2) A Market Participant may nominate a person to be a Level Two Accredited Derivatives Adviser by submitting a written application to ASIC that includes:

- (a) the full name, date of birth, business address, email address and contact telephone number of the applicant, a statement that the applicant is a Representative of the Market Participant and description of the nature of the relationship of the applicant to the Market Participant (for example, employee);
- (b) the name, business address and AFSL number of the Market Participant nominating the person to be a Level Two Accredited Derivatives Adviser;
- (c) the name, position and contact telephone number of the director, partner, Responsible Executive or Compliance Manager of the Market Participant referred to in subrule (3);
- (d) unless the person has been granted, or is applying for, an exemption under subrule 2.4.11(1), a declaration by the Market Participant that the applicant meets the requirements of paragraph (1)(b); and
- (e) an acknowledgement by the Market Participant that accreditation as a Level Two Accredited Derivatives Adviser will only authorise the applicant to provide Financial Product Advice of the kind covered by Rules 2.4.2, 2.4.3 and 2.4.4.

(3) A director, partner, Responsible Executive or Compliance Manager of the Market Participant must sign and date the application referred to in subrule (2).

(4) For the purposes of subrule (1), ASIC may approve, in writing one or more examinations that are relevant to Financial Product Advice of the kind covered by Rules 2.4.2, 2.4.3 and 2.4.4.

Note: There is no penalty for this Rule.

## 2.4.9 Acceptance of application

(1) If ASIC is satisfied that:

- (a) an application for accreditation made by a Market Participant; and
- (b) the person in respect of which the application for accreditation is made,

under Rule 2.4.6, 2.4.7 or 2.4.8, meets the applicable requirements of the Rule, ASIC will accredit the person in the relevant category of accreditation.

(2) ASIC will give the Market Participant a written notice that a person has been accredited under subrule (1), specifying:

- (a) any conditions to which the accreditation is subject;
- (b) the Renewal Date.

(3) Nothing in subrule (1) prevents ASIC from seeking further information from the Market Participant for the purposes of satisfying itself that the person or the application meets the requirements of the relevant Rule.

Note: There is no penalty for this Rule.

## 2.4.10 Rejection of application

(1) Subject to subrule (2), if ASIC is not satisfied that:

- (a) an application for accreditation made by a Market Participant; or
- (b) the person in respect of which the application for accreditation is made,

under Rule 2.4.6, 2.4.7 or 2.4.8, meets the applicable requirements of the Rule, ASIC will reject the application.

(2) ASIC will give the Market Participant a written notice that an application for accreditation has been rejected under subrule (1), specifying the reason or reasons why the application is rejected.

(3) Nothing in subrule (1) prevents ASIC from seeking further information from the Market Participant for the purposes of satisfying itself that the person or the application meets the requirements of the relevant Rule.

Note: There is no penalty for this Rule.

#### **2.4.11 Exemption for other accreditation and experience**

(1) ASIC may exempt a person, in writing, from the requirement to sit an Accreditation Examination if the person has:

- (a) completed a course listed on ASIC's Training Register as a specialist course and which, in the opinion of ASIC, provides appropriate coverage of these Rules, the Market Operating Rules, the Trading Platform and the relevant Products;
- (b) completed relevant training, other than a course listed on ASIC's Training Register, and can demonstrate, to the satisfaction of ASIC, their knowledge of these Rules, the Market Operating Rules, the Trading Platform and the relevant Products; or
- (c) extensive relevant industry experience and can demonstrate, to the satisfaction of ASIC, their knowledge of these Rules, the Market Operating Rules, the Trading Platform and the relevant Products.

(2) ASIC may require a Market Participant to provide further information which ASIC considers necessary to establish the experience, expertise and professional history of a person nominated under this Rule for exemption from the examination requirement.

(3) ASIC may require a person nominated for exemption under this Rule to complete and pass a modified version of an Accreditation Examination to demonstrate the person's expertise and knowledge of the Rules, the Market Operating Rules, the Trading Platform and relevant Products.

Note: There is no penalty for this Rule.

#### **2.4.12 Examinations**

(1) Unless ASIC gives permission under this Rule, a person may sit an Accreditation Examination for a category of accreditation no more than three times.

(2) If a person has not obtained the required pass level after sitting the Accreditation Examination three times, the Market Participant may apply to ASIC under subrule (3) for permission for the person to sit the Accreditation Examination again.

(3) A Market Participant may apply for permission for a person to sit an Accreditation Examination again by submitting a written application to ASIC that includes:

- (a) the full name, business and email address of the applicant;
- (b) the name and business address of the Market Participant seeking permission for the applicant to sit the Accreditation Examination again;
- (c) the type of Accreditation Examination that the Market Participant is applying for the applicant to re-sit;
- (d) the date on which the person last sat the Accreditation Examination;
- (e) reasons in support of the applicant being permitted to sit the Accreditation Examination again; and
- (f) the name and position of the Responsible Executive referred to in subrule (4).

(4) A Responsible Executive of the Market Participant (or, if the applicant is a Responsible Executive, another Responsible Executive of the Market Participant) must sign and date the application referred to in subrule (3).

(5) After considering the application, ASIC may permit the person to sit the examination again.

(6) ASIC will not consider an application under this Rule unless 3 months have passed since the person last sat the Accreditation Examination.

Note: There is no penalty for this Rule.

### **2.4.13 Renewal of accreditation**

(1) ASIC may renew the accreditation of an Accredited Adviser for a period of time with effect from the Renewal Date if:

- (a) the person is a Representative of a Market Participant and the Market Participant applies to ASIC during the Renewal Period to renew the person's accreditation under subrule (2);
- (b) the person has complied with the Continuing Professional Education Requirements pro-rata to the number of full months in the period from the date the Accredited Adviser was first accredited or last renewed their accreditation to the date of the application; and
- (c) ASIC has no reason to believe that the person does not have the requisite skill, knowledge and integrity to provide Financial Product Advice of the kind covered by the relevant category of accreditation.

(2) A Market Participant may apply to ASIC to renew the accreditation of a person by submitting a written application to ASIC during the Renewal Period that includes:

- (a) the name and business address of the Market Participant seeking renewal of the accreditation of the persons named in the application;

- (b) in respect of each Accredited Adviser seeking renewal of accreditation:
  - (i) the name of the Accredited Adviser;
  - (ii) the category of accreditation held by the Accredited Adviser;
  - (iii) a declaration that the Accredited Adviser is a Representative of the Market Participant;
  - (iv) a declaration that the Accredited Adviser meets the requirements of paragraph (1)(b); and
- (c) the name, position, contact telephone number, facsimile number and email address of the director, partner, Responsible Executive or Compliance Manager of the Market Participant referred to in subrule (3).

(3) A director, partner, Responsible Executive or Compliance Manager of the Market Participant must sign and date the application referred to in subrule (2).

Note: There is no penalty for this Rule.

#### **2.4.14 Acceptance of application**

(1) If ASIC is satisfied that:

- (a) an application for renewal of accreditation made by a Market Participant; and
- (b) a person in respect of which the application has been made,

meets the requirements of Rule 2.4.13, ASIC will renew the accreditation of the person with effect from the Renewal Date.

(2) ASIC will give the Market Participant a written notice that a person's accreditation has been renewed under subrule (1), specifying the next Renewal Date.

(3) Nothing in subrule (1) prevents ASIC from seeking further information from the Market Participant for the purposes of satisfying itself that the person or the application meets the requirements of the relevant Rule.

Note: There is no penalty for this Rule.

#### **2.4.15 Rejection of application or renewal subject to conditions**

(1) Subject to subrule (2), if ASIC is not satisfied that:

- (a) an application for renewal of accreditation; or
- (b) a person in respect of which the application has been made,

meets the requirements of Rule 2.4.13, ASIC may:

- (c) reject the application for renewal in respect of one or more persons; or
- (d) renew the person's accreditation but subject to such conditions as ASIC considers appropriate.



(2) If ASIC rejects the application under paragraph (1)(c), ASIC will give the Market Participant a written notice that a person's application for renewal has been rejected, specifying the reason or reasons that the application has been rejected.

(3) If ASIC renews the person's accreditation subject to conditions under paragraph (1)(d), ASIC will give the Market Participant a written notice that a person's accreditation has been renewed, specifying:

- (a) the conditions to which the renewed accreditation is subject; and
- (b) the next Renewal Date.

(4) Nothing in subrule (1) prevents ASIC from seeking further information from the Market Participant for the purposes of satisfying itself that the person or the application meets the requirements of the relevant Rule.

Note: There is no penalty for this Rule.

#### **2.4.16 Effect of non-renewal**

If, by 1 Business Day after the Renewal Date, ASIC has not renewed the accreditation of an Accredited Adviser under subrule 2.4.14(1) or paragraph 2.4.15(1)(d), the person will cease to hold the relevant accreditation with effect from the Renewal Date.

Note: There is no penalty for this Rule.

#### **2.4.17 Automatic withdrawal of accreditation**

(1) An Accredited Adviser's accreditation is automatically withdrawn when the Accredited Adviser ceases to be a Representative of the Market Participant that made the application for the person to be accredited.

(2) If an Accredited Adviser ceases to be a Representative of a Market Participant, the Market Participant must notify ASIC in writing within 5 Business Days of:

- (a) the name and date of birth of the Accredited Adviser; and
- (b) the date the Accredited Adviser ceased to be a Representative of the Market Participant.

Note: There is no penalty for this Rule.

#### **2.4.18 Voluntary withdrawal of accreditation**

(1) ASIC may withdraw the accreditation of an Accredited Adviser in one or more categories of accreditation if the Market Participant of which the person is a Representative requests that ASIC withdraw the accreditation under subrule (2).

(2) A Market Participant may request that ASIC withdraw the accreditation of an Accredited Adviser by submitting a written application to ASIC that includes:

- (a) the name and date of birth of the Accredited Adviser;

- (b) the name and business address of the Market Participant requesting that the accreditation be withdrawn;
- (c) the category of the accreditation which is to be withdrawn;
- (d) the Trading Day on which the Market Participant wishes the withdrawal to take effect;
- (e) the reasons for withdrawal of the accreditation; and
- (f) the name, position and contact telephone number of the director, partner, Responsible Executive or Compliance Manager of the Market Participant referred to in paragraph (3)(a).

(3) The application must be signed and dated by:

- (a) a director, partner, Responsible Executive or Compliance Manager of the Market Participant; and
- (b) the relevant Accredited Adviser.

Note: There is no penalty for this Rule.

#### **2.4.19 Suspension or withdrawal by ASIC**

(1) ASIC may suspend or withdraw the accreditation of an Accredited Adviser in a category of accreditation if ASIC has reason to believe that the person does not have the requisite skill, knowledge or integrity to provide Financial Product Advice of the kind covered by the relevant category of accreditation.

(2) ASIC will notify the relevant Market Participant and the Accredited Adviser in writing of a suspension or withdrawal of accreditation under subrule (1) and the reasons for the suspension or withdrawal.

Note: There is no penalty for this Rule.

#### **2.4.20 Re-accreditation after withdrawal or expiry**

(1) ASIC may re-accredit a person whose accreditation has been withdrawn or has expired, without the person sitting another Accreditation Examination if:

- (a) the person is a Representative of a Market Participant and the Market Participant applies to ASIC to re-accredit the person under subrule (2);
- (b) the person became an Employee of, or was otherwise engaged by, a Market Participant within 2 years from the date their accreditation was withdrawn or expired, and within 2 months of being re-accredited will re-commence providing Financial Product Advice to clients of a Market Participant of a kind covered by Rules 2.4.2, 2.4.3, 2.4.4 or 2.4.5;
- (c) the person has complied with the Continuing Professional Education Requirements pro-rata to the number of full months since the date their accreditation was granted or last renewed; and
- (d) ASIC has no reason to believe that the person does not have the requisite skill, knowledge and integrity to provide Financial Product Advice of the kind covered by the relevant category of accreditation.

(2) A Market Participant may apply to ASIC to re-accredit a person whose accreditation has been withdrawn or has expired by submitting a written application to ASIC that includes:

- (a) the name, date of birth, business address and email address of the applicant, a statement that the applicant is a Representative of the Market Participant and a description of the nature of the relationship of the applicant to the Market Participant (for example, employee);
- (b) the name, business address and AFSL number of the Market Participant seeking renewal of the accreditation of the applicant;
- (c) the category of accreditation sought;
- (d) a statement that the Market Participant requests the requirement for the person to sit the Accreditation Examination be waived;
- (e) a declaration by the Market Participant that the applicant meets the requirements of paragraph (1)(c); and
- (f) the name, position, contact telephone number, facsimile number and email address of the director, partner, Responsible Executive or Compliance Manager of the Market Participant referred to in subrule (3).

(3) A director, partner, Responsible Executive or Compliance Manager of the Market Participant must sign and date the application.

(4) If ASIC is satisfied that:

- (a) an application for re-accreditation made by a Market Participant; and
- (b) the person in respect of which the application for re-accreditation is made,

meets the applicable requirements of this Rule, ASIC will re-accredit the person in the relevant category of accreditation.

(5) ASIC will give the Market Participant a written notice that the person has been re-accredited under subrule (4), specifying:

- (a) any conditions to which the accreditation is subject;
- (b) the Renewal Date.

(6) Nothing in subrule (4) prevents ASIC from seeking further information from the Market Participant for the purposes of satisfying itself that the person or the application meets the requirements of the relevant Rule.

Note: There is no penalty for this Rule.

#### **2.4.21 Continuing Professional Education Requirements for Accredited Advisers**

(1) A Market Participant must ensure that all of its Accredited Advisers comply with any continuing professional education requirements approved by ASIC in accordance with subrule (2).

(2) For the purposes of subrule (1), ASIC may approve, in writing, continuing professional education requirements for Accredited Advisers that are relevant to the skills and knowledge

required to provide Financial Product Advice of the kind covered by the relevant category of accreditation.

Maximum penalty: \$20,000

#### **2.4.22 Managed Discretionary Accounts—Derivatives Market Transactions and Warrants**

A Market Participant must ensure that a Managed Discretionary Account for a Retail Client which involves dealing in Derivatives Market Transactions or Warrants is operated by an Accredited Adviser with the appropriate accreditation under these Rules.

Maximum penalty: \$1,000,000

### **Part 2.5 Designated Trading Representatives (DTRs)**

#### **2.5.1 Trading in a Trading Platform**

A Trading Participant must ensure that all trading in a Trading Platform by the Trading Participant is carried out either:

- (a) by DTRs; or
- (b) in accordance with the Automated Order Processing Requirements.

Maximum penalty: \$1,000,000

#### **2.5.2 Trading Participant must have a DTR**

A Trading Participant must have at least one DTR in respect of any one or more Products for which the Trading Participant has Trading Permission.

Maximum penalty: \$1,000,000

#### **2.5.3 DTRs may submit Trading Messages**

A Trading Participant must ensure that only its DTRs submit Trading Messages into the Trading Platform through the Trading Participant's system, unless the trading is conducted in accordance with the Automated Order Processing Requirements.

Maximum penalty: \$1,000,000

#### **2.5.4 Responsibility of Trading Participant**

A Trading Participant is responsible for the accuracy of details, the integrity and bona fides of all Trading Messages containing their unique identifier that are submitted into the Trading

Platform, regardless of whether a DTR of the Trading Participant was involved in their submission.

Note: There is no penalty for this Rule.

### **2.5.5 DTR criteria**

A Trading Participant must ensure that:

- (a) each of its DTRs is at all times a Representative of the Trading Participant authorised to deal in the Products in respect of which the DTR submits orders on behalf of the Trading Participant either:
  - (i) under the Trading Participant's AFSL; or
  - (ii) under the person's own AFSL (unless the person is a Principal Trader not required to hold an AFSL);
- (b) each of its DTRs is suitably qualified and experienced to deal in the Products referred to in paragraph (a), by submitting orders on behalf of the Trading Participant;
- (c) prior to submitting Trading Messages on behalf of the Trading Participant, each DTR has demonstrated to the Trading Participant knowledge of the Dealing Rules governing the process of dealing and reporting Market Transactions on the Trading Platform, and the relevant practices of the Market Operator;
- (d) each of its DTRs does not:
  - (i) execute any order in a Trading Platform for or on behalf of, or which will benefit, directly or indirectly, the DTR or any associate or Relative of the DTR, without the prior written approval of the Trading Participant;
  - (ii) intentionally take advantage of a situation arising as a result of:
    - (B) a breakdown or malfunction in the Market Operator's procedures or systems;
    - (C) an error made over the National Voicemail System; or
    - (D) an error in entries made by the Market Operator within a Trading Platform.

Maximum penalty: \$1,000,000

### **2.5.6 Trading Participant must allocate unique identifier**

A Trading Participant must allocate a unique identifier to each DTR of the Trading Participant.

Maximum penalty: \$100,000

### **2.5.7 Records—DTRs**

A Trading Participant must maintain a record of:

- (a) the name, contact details and DTR identifier of each of its DTRs, while the person remains a DTR of a Trading Participant; and

- (b) the information in paragraph (a) for a period of 7 years from the date the person ceases to be a DTR of the Trading Participant.

Maximum penalty: \$100,000

## Part 2.6 Foreign Participants

### 2.6.1 Minimum presence requirements

- (1) This Rule applies to a Market Participant (“**Foreign Market Participant**”) that:
  - (a) is a foreign entity; and
  - (b) does not hold an AFSL.
- (2) Before entering into a Market Transaction, a Foreign Market Participant must provide ASIC with a deed of the Foreign Market Participant for the benefit of and enforceable by ASIC and the other persons referred to in subsection 659B(1) of the Corporations Act, which deed provides that:
  - (a) the deed is irrevocable except with the prior written consent of ASIC;
  - (b) the Foreign Market Participant submits to the non-exclusive jurisdiction of the Australian courts in legal proceedings conducted by ASIC (including under section 50 of the ASIC Act) and, in relation to proceedings relating to a financial services law, by any person referred to in subsection 659B(1) of the Corporations Act and whether brought in the name of ASIC or the Crown or otherwise;
  - (c) the Foreign Market Participant covenants to comply with any order of an Australian court in respect of any matter relating to the activities or conduct of the Foreign Market Participant in relation to the Market or in relation to Financial Products traded on the Market, including but not limited to any matter relating to the Foreign Market Participant’s obligations under:
    - (i) the ASIC Act;
    - (ii) the Corporations Act; and
    - (iii) the *Corporations (Fees) Act 2001*;
  - (d) if the Foreign Market Participant is not registered under Division 2 of Part 5B.2 of the Corporations Act:
    - (i) the Foreign Market Participant must have at all times an agent who is:
      - (A) a natural person or a company;
      - (B) resident in this jurisdiction; and
      - (C) authorised to accept, on behalf of the Foreign Market Participant, service of process and notices; and
    - (ii) the Foreign Market Participant must notify ASIC of any change to:
      - (A) the agent; or

- (B) the name and address of the agent (if the agent is a company, address means the address of the registered office of the company); and
- (iii) service of process on the Foreign Market Participant in relation to legal proceedings conducted by ASIC (including under section 50 of the ASIC Act), and in relation to proceedings relating to a financial services law, by any person referred to in subsection 659B(1) of the Corporations Act and whether brought in the name of ASIC or the Crown or otherwise, can be effected by service on the agent;
- (e) the deed applies notwithstanding that the Foreign Market Participant may have ceased to be a Market Participant; and
- (f) such additional terms notified by ASIC to the Foreign Market Participant.

Maximum penalty: \$1,000,000

## Chapter 3: Client relationships

### Part 3.1 Clients trading in products for first time

#### 3.1.1 Documents to be given to a client

Before accepting an order from a person to enter into a Market Transaction, a Market Participant must give the person, in addition to all of the documents which the Market Participant is required to give the person in respect of the Market Transaction under the Corporations Act, all of the documents the Market Participant is required to give the person in respect of the Market Transaction under this Part.

Note: There is no penalty for this Rule.

#### 3.1.2 Documents to be given to a client: Options, LEPOs and Warrants

(1) Subject to subrule (4), before a Market Participant accepts an Order from a person to enter into an Options Market Transaction, the Market Participant must give the person a copy of any current explanatory booklet in respect of Options Market Contracts published by the Market Operator, together with any updates to that explanatory booklet published by the Market Operator, if it is the first time an Order to enter into an Options Market Transaction is accepted from the person.

(2) Subject to subrule (4), before a Market Participant accepts an order from a person to enter into an Options Market Transaction in respect of LEPOs, the Market Participant must give the person a copy of any current explanatory booklet in respect of LEPOs published by the Market Operator, together with any updates to that explanatory booklet published by the Market Operator, if it is the first time an Order in respect of LEPOs is accepted from the person.

(3) Subject to subrule (4), before a Market Participant accepts an Order from a person to purchase a Warrant, the Market Participant must give the person a copy of any current explanatory booklet in respect of Warrants published by the Market Operator, together with any updates to that explanatory booklet published by the Market Operator, if it is the first time an Order in respect of Warrants is accepted from the person.

(4) A Market Participant is not required to comply with subrule (1), (2) or (3) if the person from whom the Order is accepted is a Wholesale Client, unless the person expressly requests it.

(5) For the avoidance of doubt, a Market Participant is not required to comply with subrule (3) if the person from whom the Order is accepted is entering into a Market Transaction to sell Warrants.

Maximum penalty: \$100,000



### 3.1.3 Information to be given to a client: Execution arrangements

Before accepting an Order from a person to enter into a Market Transaction, if the Market Participant does not have Trading Permission to execute that Market Transaction, the Market Participant must give the person a document which clearly discloses the execution arrangements in place for that Market Transaction including, without limitation:

- (a) the name, principal telephone number and principal business address of the Trading Participant which executes the Market Transactions of the Market Participant; and
- (b) the extent of any NGF coverage of the Market Transaction.

Maximum penalty: \$100,000

### 3.1.4 Information to be given to a client: Clearing arrangements for Equity Securities, Loan Securities or Warrants

(1) Before accepting an order from a person (the “**Client**”) to enter into a Cash Market Transaction for an Equity Security, Loan Security or Warrant, if the Market Participant:

- (a) is not a Clearing Participant, who is permitted under the Clearing Rules to clear the Cash Market Transaction; or
- (b) is a Clearing Participant who is permitted under the Clearing Rules to clear that Cash Market Transaction, but has an arrangement with another Clearing Participant to clear that Cash Market Transaction, and such transaction is cleared under the arrangement,

the Market Participant must give the Client a document which clearly discloses the clearing arrangements in place for that Cash Market Transaction, including, without limitation, any information required by subrule (2).

(2) The written disclosure document referred to in subrule (1) must include:

- (a) the name, principal telephone number and principal business address of the Clearing Participant which clears the Market Transactions of the Market Participant;
- (b) if, under the clearing arrangements:
  - (i) notwithstanding that the Market Transaction may have been entered into on the Client’s behalf, the Clearing Participant carries the Clearing Obligations and any settlement obligations for all Market Transactions of the Trading Participant, including those of the Client, and must settle as principal with the Clearing Facility or the relevant counter-party;
  - (ii) the Client owes obligations to the Clearing Participant in relation to the clearing and settlement of Cash Market Transactions;
  - (iii) the Clearing Participant has rights against the Client in the event that:
    - (A) the Client fails to pay the amounts due in respect of Cash Market Transactions;
    - (B) the Client fails to fulfil its settlement obligations in respect of Cash Market Transactions,

statements to that effect.

Maximum penalty: \$100,000

### **3.1.5 Information to be given to a client: Clearing arrangements for Futures Market Transactions**

Before accepting an order from a person (the “**Client**”) to enter into a Futures Market Transaction where the Client does not have a direct relationship with a Clearing Participant, if the Market Participant:

- (a) is not a Clearing Participant, who is permitted under the Clearing Rules to clear that Futures Market Transaction; or
- (b) is a Clearing Participant who is permitted under the Clearing Rules to clear that Futures Market Transaction, but has an arrangement with another Clearing Participant to clear that Futures Market Transaction, and such transaction is cleared under the arrangement,

the Market Participant must give the Client a document which clearly discloses the clearing arrangements in place for that Futures Market Transaction, including, without limitation, the name, principal telephone number and principal business address of the Clearing Participant which clears the Market Transactions of the Market Participant.

Maximum penalty: \$100,000

### **3.1.6 Minimum terms of Client Agreement for Futures Market Contracts**

(1) Before entering into a Market Transaction on behalf of a person (the “**Client**”) in respect of a Futures Market Contract, the Market Participant must enter into a written agreement with the Client under which the Market Participant discloses, and the Client acknowledges:

- (a) that trading in Futures Market Contracts and Options Market Contracts incurs a risk of loss as well as a potential for profit;
- (b) that the Client has read and understood the details of the contract specifications of Futures Market Contracts and Options Market Contracts in which the Market Participant will deal on behalf of the Client;
- (c) that the Client should consider:
  - (i) its objectives, financial situation and needs; and
  - (ii) whether dealing in Futures Market Contracts and Options Market Contracts is suitable for its purposes;
- (d) that notwithstanding that the Market Participant may act in accordance with the instructions of, or for the benefit of, the Client, any Futures Market Contract or Options Market Contract arising from any order submitted by the Market Participant, is entered into by the Market Participant as principal;
- (e) that upon registration of a Futures Market Contract or Options Market Contract with the Clearing Facility in the name of a Clearing Participant, the Clearing Participant incurs

- obligations to the Clearing Facility as principal, even though the Futures Market Contract or Options Market Contract may have been entered into on the Client's instructions;
- (f) that the Clearing Participant may obtain benefits or rights upon registration of a Futures Market Contract or Options Market Contract with the Clearing Facility by novation of a contract under the Clearing Rules or other legal results of registration and those benefits, rights or legal results may or will be personal to the Clearing Participant and may or will not pass to the Client;
  - (g) that the Market Participant is not required to act in accordance with the Client's instructions, where to do so would constitute a breach of the Market Operating Rules, the Clearing Rules or the Corporations Act;
  - (h) that the Market Participant may, in certain circumstances permitted under the Market Operating Rules or the Corporations Act, take the opposite position in a Market Transaction, either acting for another person or on its Own Account;
  - (i) that the Market Participant may call for payment of money or the provision of other security in connection with the obligations incurred by the Market Participant in respect of Futures Market Contracts and Options Market Contracts entered into for the account of the Client and:
    - (i) the fact that the Client will be required to pay the money or provide the security; and
    - (ii) the arrangements for paying the money or providing the security, including, without limitation, the time by which the Client must pay the money or provide the security;
  - (j) the nature of any events that will constitute a default by the Client in connection with the agreement that are:
    - (i) prescribed under the Market Operating Rules; and
    - (ii) agreed between the Market Participant and the Client;
  - (k) the nature of any rights the Market Participant may have against the Client in an event of default disclosed in accordance with paragraph (j) that are:
    - (i) prescribed under the Market Operating Rules; and
    - (ii) agreed between the Market Participant and the Client;
  - (l) if the Client will or may be required to pay to the Market Participant commissions, fees, taxes or charges in connection with dealings in Futures Market Contracts and Options Market Contracts for the Client:
    - (i) the fact that the Client is required to pay such commissions, fees, taxes and charges; and
    - (ii) the manner in which the Client will be notified of the rate of such commissions, fees, taxes and charges;
  - (m) that the Market Participant may record telephone conversations between the Client and the Market Participant and that if there is a dispute between the Client and the Market Participant, the Client has the right to listen to any recording of those conversations;

- (n) if the Market Participant may refuse to enter into Market Transactions for the Client, or limit the Market Transactions it enters into for the Client, that the Market Participant will notify the Client of any refusal or limitation as soon as practicable;
  - (o) that money or property, other than property to which Division 3 of Part 7.8 of the Corporations Act applies, deposited with, or received by, the Market Participant in connection with dealings in Futures Market Contracts and Options Market Contracts for the Client will be segregated by the Market Participant in accordance with the Market Operating Rules and the Corporations Act; and
  - (p) that the Client's monies and the monies of other clients will or may, as applicable, be combined and deposited by the Market Participant in a clients' segregated account and may be used by the Market Participant to meet the default of any client of the Market Participant.
- (2) The Market Participant must set out in a Client Agreement entered into under subrule (1) any minimum period of notice to terminate the agreement and any other limitations on the right to terminate the agreement.

Maximum penalty: \$100,000

### 3.1.7 Minimum terms of Client Agreement for Options Market Contracts

- (1) Before entering into a Market Transaction in respect of an Options Market Contract on behalf of a Retail Client (the "**Client**"), the Market Participant must enter into a written agreement with the Client under which:
- (a) the Client and the Market Participant agree on the instruments (the "**ASX Derivatives Market Contracts**") in which the Market Participant may deal on behalf of the Client;
  - (b) the Client acknowledges that the Client has received and read a copy of any current explanatory booklets published by the Market Operator in respect of the ASX Derivatives Market Contracts;
  - (c) the Client acknowledges that the Client is acting:
    - (i) as principal; or
    - (ii) as an intermediary on another's behalf and are specifically authorised to transact the ASX Derivatives Market Contracts by the terms of:
      - (A) a licence held by the Client;
      - (B) a trust deed (if the Client is a trustee); or
      - (C) an agency contract;
  - (d) the Market Participant discloses, and the Client acknowledges:
    - (i) that notwithstanding that the Market Participant may act in accordance with the instructions of, or for the benefit of, the Client, any contract arising from any order submitted to the Market, is entered into by the Market Participant as principal;
    - (ii) that the Market Participant may, in certain circumstances permitted under the Market Operating Rules or the Corporations Act, take the opposite position in a

transaction in the ASX Derivatives Market Contracts, either acting for another person or on its Own Account;

- (iii) if the Client will or may be required to pay to the Market Participant commissions, fees, taxes or charges in connection with dealings in the ASX Derivatives Market Contracts for the Client:
  - (A) the fact that the Client is required to pay such commissions, fees, taxes and charges; and
  - (B) the manner in which the Client will be notified of the rates of such commissions, fees, taxes and charges;
- (iv) that the Market Participant may record telephone conversations between the Client and the Market Participant and if there is a dispute between the Client and the Market Participant, the Client has the right to listen to any recording of those conversations;
- (v) if the Market Participant may refuse to enter into Market Transactions for the Client, or limit the Market Transactions it enters into for the Client, that the Market Participant will notify the Client of any refusal or limitation as soon as practicable;
- (vi) that the Trading Participant is not required to act in accordance with the Client's instructions, where to do so would constitute a breach of the Market Operating Rules, the Clearing Rules or the Corporations Act;
- (vii) that each Options Market Contract registered with a Clearing Facility is subject to operating rules and any practices, directions, decisions and requirements of that Clearing Facility.

(2) The Market Participant must set out in a Client Agreement entered into under subrule (1) any minimum period of notice to terminate the agreement and any other limitations on the right to terminate the agreement.

Maximum penalty: \$100,000

### 3.1.8 Client Agreement for Warrants

(1) Before entering into a Market Transaction in respect of Warrants on behalf of a Retail Client (the "**Client**"), subject to subrule (3), the Market Participant must enter into a written agreement with the Client under which the Market Participant discloses, and the Client acknowledges that they are aware that:

- (a) a Warrant has a limited life and cannot be traded after its expiry date;
- (b) Warrants do not have standardised Terms of Issue and it is the responsibility of the Client to become aware of the Terms of Issue of any Warrant in which the Client chooses to invest; and
- (c) Warrants may be subject to adjustments after their initial issue and it is the Client's responsibility to become aware of any adjustments which may have been made to any Warrant in which the Client chooses to invest.

(2) The written agreement referred to in subrule (1) must include an acknowledgement from the Client that the Client has received and read a copy of any current explanatory booklet issued by the Market Operator in respect of Warrants.

(3) A Market Participant is not required to enter into an agreement under subrule (1) before entering into a Market Transaction to sell Warrants.

(4) A Market Participant is not required to comply with subrules (1) and (2) if the Market Participant is a participant of the market operated by Chi-X Australia Pty Ltd (ACN 129 584 667) and the Market Participant has a written agreement with the Client under Rule 3.1.8 of the ASIC Market Integrity Rules (Chi-X Australia Market) 2011.

Note: Subrule (4) does not affect a Market Participant's obligation to give a Client a copy of an explanatory booklet under Rule 3.1.2.

Maximum penalty: \$100,000

### 3.1.9 Client Agreement for Partly Paid Securities

(1) Before entering into a Market Transaction in respect of Partly Paid Securities on behalf of a Retail Client (the “**Client**”), subject to subrule (2), the Market Participant must enter into a written agreement with the Client under which the Market Participant discloses, and the Client acknowledges that they are aware, that:

- (a) a Partly Paid Security is a security which may require the Client to make a further payment or payments at some time in the future;
- (b) it is the responsibility of the Client to obtain and read a copy of the prospectus, product disclosure statement or information memorandum issued by an Issuer which sets out the particular features of, and rights and obligations attaching to, a Partly Paid Security before the Client places an order to buy a Partly Paid Security;
- (c) the Client may be required to make further payments on a Partly Paid Security and that a failure to make a further payment by the specified date(s) may result in an Issuer of a Partly Paid Security or their associates or agents taking action, including legal action, against the Client to recover the outstanding payments and/or may result in the forfeiture of the Client's entitlement to the Partly Paid Security;
- (d) in certain circumstances the Client may be required to make a further payment on a Partly Paid Security despite the fact that the Client may have disposed of a Partly Paid Security prior to the date that a further payment falls due;
- (e) the Client should monitor announcements made by the Issuer of a Partly Paid Security and that it is the responsibility of the Client to inform themselves of the dates or circumstances that a further payment falls due and the last day that the Client can dispose of the Partly Paid Security before the Client becomes required to make a further payment;
- (f) the amount of a further payment may be unrelated to the financial performance of a Partly Paid Security and that the amount of the further payment may exceed the intrinsic value of a Partly Paid Security at the time a further payment falls due.

(2) A Market Participant is not required to enter into an agreement under subrule (1) before entering into a Market Transaction to sell Partly Paid Securities.

Maximum penalty: \$100,000

### **3.1.10 Other terms of Client Agreements**

For the avoidance of doubt, a Client Agreement may include other disclosures, acknowledgements, terms and conditions agreed between the Market Participant and the Client, or required to be included under the Market Operating Rules, provided they are not inconsistent with the requirements of Rules 3.1.6, 3.1.7, 3.1.8 and 3.1.9.

Note: There is no penalty for this Rule.

### **3.1.11 Market Participant to keep copy of Client Agreement and disclosures**

The Market Participant must retain a copy of each Client Agreement and any disclosures made under this Part for at least 7 years following the date on which the Client Agreement, or the arrangement the subject of the disclosure, is terminated.

Maximum penalty: \$100,000

### **3.1.12 Client agreement where Market Participant is not the Clearing Participant (Options Market Transactions only)**

Before entering into an Options Market Transaction for a person (the “**Client**”), where the Market Participant:

- (a) is not a Clearing Participant, who is permitted under the Clearing Rules to clear that Options Market Transaction; or
- (b) is a Clearing Participant, who is permitted under the Clearing Rules to clear that Market Transaction, but has an arrangement with another Clearing Participant to clear that Options Market Transaction, and such transaction is cleared under the arrangement,

the Market Participant must:

- (c) have previously confirmed with the Clearing Participant that the Client has entered into an agreement with the Clearing Participant as required under the Clearing Rules; or
- (d) where the Client is a Wholesale Client, have satisfied itself that the Client has executed and lodged with the Clearing Facility a Wholesale Client Agreement as required under the Market Operating Rules.

Maximum penalty: \$100,000

### **3.1.13 Client agreement where Market Participant is the Clearing Participant (Options Market Transactions only)**

Before entering into an Options Market Transaction for a person (the “**Client**”), where the Market Participant is the Clearing Participant in relation to the Options Market Transaction, the Market Participant must:

- (a) have entered into an agreement with the Client as required under the Clearing Rules; or
- (b) where the client is a Wholesale Client, have satisfied itself that the Client has executed and lodged with the Clearing Facility a Wholesale Client Agreement as required under the Market Operating Rules.

Maximum penalty: \$100,000

## **Part 3.2 Trading as Principal**

### **3.2.1 Application**

This Part 3.2 applies where a Market Participant enters into a Market Transaction with a Client as Principal, except where the Client is a Market Participant or a participant or member of a Recognised Stock Exchange.

Note: There is no penalty for this Rule.

### **3.2.2 Disclosure and consent**

Before entering into a Market Transaction as Principal with a person (the “**Client**”), the Market Participant must disclose, or have previously disclosed, in accordance with paragraph 991E(1)(c) of the Corporations Act, that it is acting, or may act, as Principal and have obtained the consent of the Client, in accordance with paragraph 991E(1)(d) of the Corporations Act.

Maximum penalty: \$100,000

### **3.2.3 Confirmation must include disclosure**

When a Market Participant enters into a Market Transaction with a person (the “**Client**”) as Principal, the confirmation issued by the Market Participant to the Client under Rule 3.4.1 in respect of that Market Transaction must state that the Market Participant entered into the transaction as Principal and not as agent.

Maximum penalty: \$100,000



### 3.2.4 Brokerage and commission

(1) When a Market Participant enters into a Market Transaction as Principal with a person (the “**Client**”), the Market Participant must not charge the Client brokerage, commission or any other fee in respect of the Market Transaction, except in the following circumstances:

- (a) where the Client is a Prescribed Person of the Market Participant;
- (b) where the Client is a Wholesale Client who has consented to the Market Participant charging brokerage, commission or the other fee (and that consent has not been withdrawn); or
- (c) where otherwise permitted by the Corporations Act.

(2) The Market Participant must keep a written record of any consent given by a Wholesale Client under paragraph (1)(b), and send a copy of the record to that Wholesale Client as soon as practicable.

Maximum penalty: \$100,000

### 3.2.5 Extended meaning of dealing as Principal

(1) Except where a Market Participant is dealing as a trustee of a trust in which the Market Participant has no direct or indirect beneficial interest, a reference in this Part 3.2 to a Market Participant dealing or entering into a Market Transaction as Principal, includes a reference to a Market Participant entering into a Market Transaction on its own behalf or on behalf of any of the following persons:

- (a) a partner of the Market Participant;
- (b) a director, company secretary or Substantial Holder of the Market Participant;
- (c) the Immediate Family, Family Company or Family Trust of a partner, director, company secretary or Substantial Holder of the Market Participant;
- (d) a body corporate in which the interests of one or more of the partners singly or together constitute a controlling interest;
- (e) any Related Body Corporate of the Market Participant, except where that Related Body Corporate is dealing as a trustee of a trust in which it, or the Market Participant, has no direct or indirect beneficial interest.

(2) Without limitation, in paragraph (1)(b), a reference to dealing on behalf of a Substantial Holder means that any Cash Market Product the subject of the Market Transaction is, or will be on the execution of the transaction, beneficially owned by the Substantial Holders.

(3) For the purposes of subrule (2), Cash Market Products beneficially owned by a Substantial Holder include Cash Market Products that appear or would appear as assets on the balance sheet or consolidated balance sheet of that Substantial Holder’s assets and liabilities, except where the Cash Market Products concerned appear or would appear as assets on the balance sheet or consolidated balance sheet of a life insurance company registered under the *Life Insurance Act 1995* or the equivalent Act of a State, and are held for or on behalf of that life insurance company’s statutory funds.

Note: There is no penalty for this Rule.

### 3.2.6 Register of persons who are regarded as Principal

A Market Participant must keep a register of the persons referred to in paragraphs 3.2.5(1)(a) to (e).

Maximum penalty: \$100,000

## Part 3.3 Client instructions

### 3.3.1 Market Participant restrictions

A Market Participant must not:

- (a) accept or execute instructions from a person (a “**Client**”) to enter into a Market Transaction except in accordance with these Rules, the Competition Market Integrity Rules and the Market Operating Rules;
- (b) enter into a Market Transaction for a Client, except in accordance with the instructions of the Client, or of a person authorised in writing by a Client to give such instructions, or pursuant to an exercise of discretion in respect of that particular Client’s Managed Discretionary Account or as otherwise permitted by these Rules or the Market Operating Rules;
- (c) allocate a Market Transaction to a Client’s account unless the Market Transaction was entered into on the instructions of the Client, or of a person authorised in writing by a Client to give such instructions, or pursuant to an exercise of discretion in respect of that particular Client’s Managed Discretionary Account or as otherwise permitted by these Rules or the Market Operating Rules; or
- (d) except as permitted under these Rules, the Competition Market Integrity Rules or the Market Operating Rules, or in writing by ASIC, enter into or arrange a Market Transaction on the instructions of a Client unless the instructions are executed in such a manner that the Market Transaction is entered into on a Trading Platform.

Maximum penalty: \$1,000,000

### 3.3.2 Excessive trading

A Market Participant must not enter into Market Transactions on a Managed Discretionary Account for a Retail Client where the size or frequency of the Market Transactions may be considered excessive having regard to the investment objectives, financial situation and needs of the client and the relevant markets.

Maximum penalty: \$1,000,000

## Part 3.4 Reporting to Clients

### 3.4.1 Confirmations—Form and timing

(1) Subject to Rule 3.4.3, a Market Participant must give a confirmation to a person (the “Client”) in respect of each Market Transaction entered into on the Client’s instructions or on the Client’s Managed Discretionary Account.

(2) The Market Participant must send to, or cause to be sent to, the Client a confirmation:

- (a) in writing;
- (b) electronically; or
- (c) in another form permitted by ASIC,

as soon as practicable after the Market Participant enters into the Market Transaction.

(3) The confirmation must meet the following requirements:

- (a) the confirmation must include all of the information required to be included in a confirmation under Division 3 of Part 7.9 of the Corporations Act;
- (b) the confirmation must include a statement that the confirmation is issued subject to:
  - (i) the directions, decisions and requirements of the Market Operator, these Rules, the Market Operating Rules, the Clearing Rules and where relevant, the Settlement Rules;
  - (ii) the customs and usages of the Market; and
  - (iii) the correction of errors and omissions,

unless the Market Participant has obtained and retained an acknowledgment from the Client that the conditions set out in subparagraphs (i), (ii) and (iii) apply to the issue of confirmations to that Client;

- (c) if the Market Transaction is to be cleared by another party which is a Clearing Participant, the confirmation must include the name of the Market Participant which executed the trade and the Clearing Participant which clears it;
- (d) the confirmation must state the time by which all documents and information which the Market Participant or Clearing Participant will require to settle the Market Transaction must be provided by the Client:
  - (i) in the case of a sale of Cash Market Products, the date by which the Client must provide all documents and security holder information (including, if applicable, the relevant holder identification number or personal identification number and/or shareholder reference number) required by the relevant Clearing Participant to meet its Clearing Obligations; and
  - (ii) if applicable, the date by which the Client must provide the consideration specified in the confirmation; and
  - (iii) if applicable, the date by which the net consideration to the Client falls due;

- (e) the confirmation must state the amount of money which the Client must pay, or which the Client will receive, on settlement of the Market Transaction and, if the Client is required to pay an amount of money, the time by which that money must be paid;
- (f) where the Market Transaction involved a Crossing, the confirmation must include a statement to that effect;
- (g) the confirmation must include any disclosure required under Rule 3.2.3; and
- (h) if the confirmation is a confirmation in respect of:
  - (i) a Conditional Sale of a Cash Market Product and the corresponding confirmation in respect of the conditional purchase of the relevant Cash Market Product; or
  - (ii) the entry into of an Options Market Contract over a Cash Market Product which is, at the time, traded on a conditional basis,
 the confirmation must be endorsed as conditional and state the condition and the effect of non-fulfilment of the condition.

Maximum penalty: \$100,000

### 3.4.2 Confirmations—accumulation and price averaging

If a Market Participant is required by Rule 3.4.1 to give a confirmation to a person (the “Client”) and the Market Participant enters into multiple Market Transactions for the purpose of completing the Client’s order, the Market Participant may accumulate those Market Transactions on a single confirmation and specify the volume weighted average price for those Market Transactions provided that:

- (a) the Client authorised in writing the accumulation and price averaging of 2 or more Market Transactions in a confirmation at or before the time the order was placed; and
- (b) if requested by the Client, the Market Participant gives to the Client a statement of all the individual prices of the Cash Market Products or Derivatives Market Contracts, as applicable, which are accumulated and averaged under this Rule.

Maximum penalty: \$20,000

### 3.4.3 Confirmations—clients other than Retail Clients

(1) A Market Participant is not required to comply with Rule 3.4.1 in respect of a client that is not a Retail Client, provided the Market Participant:

- (a) has notified the client before entering a Trading Message on the client’s behalf that Market Transactions effected for the client are subject to:
  - (i) the directions, decisions and requirements of the Market Operator, these Rules, the Market Operating Rules, the Clearing Rules and where relevant, the Settlement Rules;
  - (ii) the customs and usages of the Market; and
  - (iii) the correction of errors and omissions; and

- (b) subject to subrule (2), notifies the client as soon as practicable:
  - (i) if the Market Participant entered into the client's Market Transaction as Principal; that the Market Participant entered into the Market Transaction as Principal; and
  - (ii) if the client's Market Transaction was executed as a Crossing, the execution code of the execution venue for the Crossing.

(2) A Market Participant does not have to give the notifications in paragraph (1)(b) to a client who has agreed not to receive such notifications.

(3) A Market Participant must keep a record of the notification referred to in paragraph (1)(a).

(4) ASIC may determine and publish on its website a notification of the execution venue codes referred to in subparagraph (1)(b)(ii).

(5) A Market Participant is not required to comply with paragraph (1)(b) until 28 October 2014.

Maximum penalty: \$100,000

## Part 3.5 Client Money and Property

### 3.5.1 Trust accounts—Cash Market Transactions and Options Market Transactions

A Market Participant must establish one or more clients' trust accounts for money received by the Market Participant in connection with dealings in Cash Market Transactions or Options Market Transactions.

Maximum penalty: \$1,000,000

### 3.5.2 Segregated accounts or trust accounts—Futures Market Transactions

A Market Participant must establish either one or more clients' trust accounts or clients' segregated accounts for money received by the Market Participant in connection with dealings in:

- (a) Futures Market Transactions; and
- (b) Options Market Transactions over an Underlying Financial Product which is a Futures Market Contract.

Maximum penalty: \$1,000,000

### 3.5.3 Bank accounts to be with Australian ADI

All money received by a Market Participant which the Corporations Act requires the Market Participant to deposit in a clients' segregated account or in a clients' trust account must be

deposited in an account with an Australian ADI in Australia (which has been rated by an Approved Ratings Agency as being at least short term investment grade) unless:

- (a) the money is received by the Market Participant in another country and the Market Participant deposits the money in a clients' segregated account or clients' trust account with a branch of an Australian ADI with such a rating in that country; or
- (b) Rule 3.5.4 applies.

Maximum penalty: \$1,000,000

### **3.5.4 Approved foreign banks**

(1) ASIC may approve, in writing, foreign banks at which Market Participants may:

- (a) open clients' segregated accounts or clients' trust accounts for the handling of money received for a person in another country or for a person who is resident in another country; and
- (b) invest money held in clients' segregated accounts or clients' trust accounts in another country.

(2) ASIC may impose conditions on the use of a foreign bank approved under subrule (1) for clients' segregated accounts and clients' trust accounts.

Note: There is no penalty for this Rule.

### **3.5.5 Change of rating or approval of ADI**

If the Market Participant has a clients' segregated account or a clients' trust account with an Australian ADI which ceases to have the rating referred to in Rule 3.5.3 or with a foreign bank which ceases to be a bank approved under Rule 3.5.4, the Market Participant must transfer the balance of the relevant account to an entity which meets the requirements of Rule 3.5.3 or Rule 3.5.4, as applicable.

Maximum penalty: \$1,000,000

### **3.5.6 Liquidity requirement—clients' segregated accounts—Futures Market Transactions**

If a Market Participant invests money from a clients' segregated account maintained under Rule 3.5.2 pursuant to paragraph 981C(a) of the Corporations Act, that investment must be readily realisable and at least 50% of money invested under that paragraph must be invested on 24 hour call terms.

Maximum penalty: \$1,000,000

### 3.5.7 Top up requirement—clients’ segregated accounts—Futures Market Transactions

(1) Subject to subrule (2), if a person (the “Client”) does not satisfy, either through payment or the provision of security, a request by the Market Participant to meet:

- (a) an Initial Margin call in relation to positions in Futures Market Transactions held by the Market Participant on behalf of the Client; or
- (b) a call in relation to the close out, settlement or daily settlement of Open Contracts,

within 48 hours following the call for payment, the Market Participant must pay into the clients’ segregated account the lesser of:

- (c) the amount of the request; or
- (d) the amount which the Market Participant would be obliged under the Market Operating Rules to request from the Client on the following day.

(2) Where the request by a Market Participant for payment or the provision of security relates to derivatives traded on a market operated by a person other than the Market Operator, the Market Participant must by the time required under the rules of that market, pay into the clients’ segregated account the lesser of:

- (a) the amount of the request; or
- (b) the amount which the Market Participant would be obliged under the operating rules of the other market to request from the Client on the following day.

Maximum penalty: \$1,000,000

### 3.5.8 Reconciliation of clients’ segregated accounts

(1) A Market Participant must perform an accurate reconciliation, by 7.00pm on the Trading Day after the Trading Day to which the reconciliation relates, of the aggregate balance held by it at the close of business on each Business Day in clients’ segregated accounts maintained pursuant to Rule 3.5.2 and the corresponding balance as recorded in the Market Participant’s accounting records.

(2) The reconciliation referred to in subrule (1) must set out:

- (a) the date to which the reconciliation relates;
- (b) the dollar amounts of:
  - (i) Total Futures Client Monies;
  - (ii) Associated/Related Company Monies;
  - (iii) Director/Employee Monies;
  - (iv) Total Third Party Client Monies,
 for both the day of the reconciliation and the prior day;
- (c) the dollar amounts of:

- (i) clients' segregated account at bank;
  - (ii) Deposits with ASX Clear Client Account;
  - (iii) Deposits with ASX Clear (Futures) Client Account;
  - (iv) Deposits with ASX Clear Futures Clearing Participant;
  - (v) Deposits with ASX Clear (Futures) Participant;
  - (vi) Deposits with an ASX Market Participant;
  - (vii) Deposits with an Australian Securities Exchange Participant;
  - (viii) Deposits with an Overseas Broker;
  - (ix) funds invested in accordance with paragraph 981C(a) of the Corporations Act;
  - (x) Total Deposits,
- for both the day of the reconciliation and the prior day;
- (d) the dollar amount of the Variation for both the day of the reconciliation and the prior day;
  - (e) an explanation of the reason for a Variation, if the dollar amount of the Variation is more than, or less than, zero;
  - (f) where the movement in Total Futures Client Monies is greater than 20% from the prior day, an explanation of the reason.

(3) For the purposes of this Part:

**“Associated/Related Company Monies”** means the total amount of money received from:

- (a) any body corporate that is related to the Market Participant;
- (b) any person who is associated with the Market Participant; and
- (c) any body corporate in which the Market Participant has a controlling interest,

in respect of transactions in futures contracts dealt on any exchange.

**“ASX Clear”** means ASX Clear Pty Limited.

**“ASX Clear (Futures)”** means ASX Clear (Futures) Pty Limited.

**“Australian Securities Exchange”** means Australian Securities Exchange Limited.

**“Client”** means a person (including any director, officer, employee or associated or related company of the Market Participant) on behalf of whom the Market Participant deals, or from whom the Market Participant accepts instructions to deal, in futures contracts.

**“Clients’ Segregated Account at Bank”** means the Total Third Party Client Monies held in the clients’ segregated account relating to futures contracts traded on any exchange.

**“Deposits with ASX Clear Client Account”** means the total amount of third-party client funds, including margin amounts, lodged with ASX Clear in relation to transactions in futures contracts.



**“Deposits with ASX Clear (Futures) Client Account”** means the total amount of third-party client funds, including margin amounts, lodged with ASX Clear (Futures) in relation to transactions in futures contracts.

**“Deposits with ASX Clear Futures Clearing Participant”** means the total amount of third-party client funds paid to a Clearing Participant of ASX Clear in relation to transactions in futures contracts.

**“Deposits with ASX Clear (Futures) Participant”** means the total amount of third-party client funds paid to a participant of ASX Clear (Futures) in relation to transactions in futures contracts.

**“Deposits with an ASX Market Participant”** means the total amount of third-party client funds paid to another Market Participant.

**“Deposits with an Australian Securities Exchange Participant”** means the total amount of third-party client funds paid to a participant of Australian Securities Exchange in relation to transactions in futures contracts.

**“Deposits with an Overseas Broker”** means the total amount of third-party client funds lodged with an Overseas Broker in relation to transactions in futures contracts.

**“Director/Employee Monies”** means the total amount of money received from:

- (a) any director, or officer, of the Market Participant; and
- (b) any employee of the Market Participant;

in respect of transactions in futures contracts dealt on any exchange.

**“Total Deposits”** means the sum of subparagraphs (2)(c)(i) to (c)(ix).

**“Total Futures Client Monies”** means the total amount of money received from Clients in respect of transactions in futures contracts, including amounts relating to futures contracts traded on any exchange.

**“Total Third Party Client Monies”** means:

Total Futures Client Monies less (Associated/Related Company Monies plus Director/Employee Monies)

**“Variation”** means:

Total Third Party Client Monies less Total Deposits

(4) The reconciliation must contain a statement signed by a Responsible Executive or a person authorised in writing by a Responsible Executive, stating that the signatory believes, and has no reason not to believe, that the reconciliation is accurate in all respects.

Maximum penalty: \$1,000,000

### 3.5.9 Reconciliation of trust accounts

(1) A Market Participant must perform a reconciliation of:

- (a) the aggregate balance held by it at the close of business on each Business Day in clients' trust accounts maintained pursuant to Rule 3.5.1 or 3.5.2 and the corresponding balance as recorded in the Market Participant's accounting records; and
- (b) the balance held by it at the close of business on the last Business Day of each week on trust for each person on whose behalf money is held in a trust account maintained pursuant to Rule 3.5.1 or 3.5.2 and the corresponding balance as recorded in the Market Participant's accounting records,

that:

- (c) is accurate in all respects; and
- (d) contains a statement signed by a Responsible Executive or a person authorised in writing by a Responsible Executive, stating that the signatory believes, and has no reason not to believe, that the reconciliation is accurate in all respects.

(2) The Market Participant must perform the reconciliation referred to in subrule (1) by 7.00pm on the Trading Day after the Trading Day to which the reconciliation relates.

Maximum penalty: \$1,000,000

### 3.5.10 Obligation to notify ASIC in respect of reconciliation

A Market Participant must notify ASIC, in writing, within 2 Business Days if:

- (a) a reconciliation has not been performed in accordance with Rule 3.5.8;
- (b) a reconciliation has not been performed in accordance with Rule 3.5.9;
- (c) according to a reconciliation performed pursuant to Rule 3.5.8, Total Deposits is less than Total Third Party Client Monies; or
- (d) according to a reconciliation performed pursuant to Rule 3.5.9, there is a deficiency of funds in its trust accounts (or, in respect of a reconciliation performed pursuant to paragraph 3.5.9(1)(b), a deficiency in respect of any particular person on whose behalf money is held in the trust account) or if it is unable to reconcile its trust accounts pursuant to Rule 3.5.9.

Maximum penalty: \$100,000

### 3.5.11 Schedule of trust amounts

Each Market Participant must by no later than 5 Business Days after 31 March, 30 June, 30 September and 31 December in each year cause to be prepared a schedule as at the above dates showing the respective amounts held in the Market Participant's trust account on behalf of clients together with the names of the particular client in respect of each amount.

Maximum penalty: \$100,000

## **Part 3.6 Prohibition of advice to Client**

### **3.6.1 Definition used in this Part 3.6**

For the purposes of this Part 3.6, “**Client**” includes a shareholder in a company which constitutes the Market Participant.

Note: There is no penalty for this Rule.

### **3.6.2 Market Participant possesses information that is not generally available**

Where as a result of its relationship to a Client, a Market Participant is in possession of information that is not generally available in relation to a Financial Product and which would be likely to materially affect the price of that Financial Product if the information was generally available, that Market Participant must not give any advice to any other Client of a nature that would damage the interest of either of those Clients.

Maximum penalty: \$1,000,000

### **3.6.3 Chinese Walls in place**

For the purposes of Rule 3.6.2, a Market Participant is not regarded as having possession of information that is not generally available in relation to a Financial Product where:

- (a) that Market Participant has in place arrangements whereby information known to persons included in one part of the business of the Market Participant is not available, directly or indirectly, to those involved in another part of the business of the Market Participant;
- (b) it is accepted that in each of the parts of the business of the Market Participant so divided, decisions will be taken without reference to any interest which any other such part or any person in any other such part of the business of the Market Participant may have in the matter; and
- (c) the person advising the Client is not in possession of that information.

Note: There is no penalty for this Rule.

### **3.6.4 Certain actions do not constitute giving advice**

For the purposes of Rule 3.6.2, a Market Participant or an Employee or partner of a Market Participant advising a Client that the Market Participant is precluded from giving the Client advice will not be regarded as giving advice.

Note: There is no penalty for this Rule.

## Chapter 4: Records

### Part 4.1 Trading records

#### 4.1.1 Records of dealings for clients

(1) This Rule applies to a Market Participant who receives instructions to enter into a Market Transaction on behalf of a person (the “**Client**”), whether or not a Trading Message corresponding to those instructions is entered into or matched on a Trading Platform.

(2) Subject to Rule 4.1.7, in addition to complying with the requirements of the Corporations Act to the extent that those requirements apply to dealing in the Market, the Market Participant must maintain sufficiently detailed records showing:

- (a) particulars of the instructions, including, without limitation:
  - (i) the Financial Product to be bought or sold;
  - (ii) the number thereof;
  - (iii) any price or time related instructions;
  - (iv) any time limit on the instructions;
  - (v) the date and time the Market Participant received the instructions;
  - (vi) instructions or decisions to purchase or sell Financial Products pursuant to a Managed Discretionary Account (including, without limitation, the Financial Products to be bought or sold and the number thereof, any price or time related instructions or decisions and the name of the person who generated the instruction or made the decision), whether the instruction or decision was executed or not; and
  - (vii) the authority of the Client, if any, for accumulation and price averaging under Rule 3.4.2;
- (b) the name of the Client;
- (c) the name of the person who gave the instructions (or, if the Trading Message was received by Automated Order Processing, the information set out in Rule 5.5.3);
- (d) any amendment of any kind to the instructions or Trading Message (including, without limitation, cancellation of an instruction or Trading Message, variation of the number of Financial Products to be bought or sold or variation of any price or time related instructions) including the date and time of any amendment to the instructions or Trading Message;
- (e) the name of the person who received the instruction (or, if the Trading Message was received by Automated Order Processing, the information set out in Rule 5.5.3);
- (f) the name of any other person who passed the instruction on between the person who initially received the instruction, and the Trading Platform and the date and time they passed it;

- (g) the name of the DTR who entered a Trading Message into a Trading Platform (or, if the Trading Message was submitted by Automated Order Processing, the information set out in Rule 5.5.3);
- (h) the time the DTR entered a Trading Message into a Trading Platform (or if the Trading Message was submitted by Automated Order Processing, the time at which the Trading Message was initiated by the Open Interface Device);
- (i) if the Trading Message gives rise to a Market Transaction, the date and time that occurs; and
- (j) the Derivatives Market Contracts arising from instructions that are nominated for accumulation and price averaging under the Clearing Rules.

Maximum penalty: \$100,000

#### **4.1.2 Records of dealings on Own Account**

(1) This Rule applies to a Market Participant that makes a decision, or gives instructions to, enter into a Market Transaction on its Own Account, whether or not the Market Transaction is executed.

(2) Subject to Rule 4.1.8, the Market Participant must, in addition to complying with the requirements of the Corporations Act to the extent that those requirements apply to dealing in the Market provided by the Market Operator, maintain sufficiently detailed records showing:

- (a) particulars of the decision or instructions, including, without limitation:
  - (i) the name of the person who generated the instruction or made the decision;
  - (ii) the Financial Products to be bought or sold;
  - (iii) the number thereof;
  - (iv) any price or time related instructions or decisions; and
  - (v) any time limit on the instruction;
- (b) any amendment of any kind to the instructions or Trading Message (including, without limitation, cancellation of an instruction or Trading Message, variation of the number of Financial Products to be bought or sold or variation of any price or time related instructions), including the date and time of any amendment to the instruction or Trading Message;
- (c) the name of any other person who passed the instruction on between the person who initially gave the instruction or made the decision, and a Trading Platform and the date and time they passed it;
- (d) the name of the DTR who entered a Trading Message into a Trading Platform (or if the Trading Message was submitted by Automated Order Processing, the information set out in Rule 5.5.3);
- (e) the time the DTR entered a Trading Message into a Trading Platform (or if the Trading Message was submitted by Automated Order Processing, the time at which the Trading Message was initiated by the Open Interface Device); and

(f) if the Trading Message gives rise to a Market Transaction, the date and time that occurs.

Maximum penalty: \$100,000

#### **4.1.3 Records to be made immediately**

A Market Participant must make the records referred to in Rules 4.1.1, 4.1.2, 4.1.7 and 4.1.8 immediately after the event to which they relate and record the time of the relevant event.

Maximum penalty: \$100,000

#### **4.1.4 Records to be retained for prescribed period**

A Market Participant must retain the records referred to in Rules 4.1.1, 4.1.2, 4.1.7 and 4.1.8 for 7 years from the date the record is made.

Maximum penalty: \$100,000

#### **4.1.5 Certain records maintained by the Market Operator**

Where a Market Participant is a Trading Participant, certain of its obligations under Rules 4.1.1 and 4.1.2 may be met by relying on records maintained electronically as set out in Rule 4.1.6.

Note: There is no penalty for this Rule.

#### **4.1.6 Conditions for reliance on the Market Operator records**

(1) Where the records of the Trading Participant:

- (a) are able to connect the DTR identifier with the particular DTR; and
- (b) identify the person, or any other persons, receiving the instructions, generating an order or making a decision (if not the DTR) and a DTR is capable of being connected to a particular Trading Record or sequence of events,

a Trading Participant may:

- (c) when dealing for clients satisfy certain of its obligations in relation to paragraphs 4.1.1(2)(g), 4.1.1(2)(h) and 4.1.1(2)(i); or
- (d) when dealing on its Own Account, satisfy certain of its obligations in relation to subparagraphs 4.1.2(2)(a)(i) to (iv), paragraphs 4.1.2(2)(b), 4.1.2(2)(d), 4.1.2(2)(e) and 4.1.2(2)(f),

by relying on records maintained by the Market Operator, but only to the extent permitted by subrule (2).

(2) For the purposes of subrule (1), the Market Participant may satisfy the obligation specified in column 1 of the following table by relying on records maintained by the Market Operator in the circumstances specified in column 2 of the following table:

<b>Column 1: A Market Participant may satisfy the obligation:</b>	<b>Column 2: by relying on records maintained by the Market Operator in the following circumstances:</b>
under paragraph 4.1.1(2)(g) to maintain records of the name of the DTR who entered a Trading Message into the Trading Platform	where the DTR identifier is contained in the Trading Message and recorded by the Trading Platform (the DTR who entered the Trading Message being taken to be the DTR whose identifier is so recorded)
under paragraph 4.1.1(2)(h) to maintain records of the time of the Trading Message	where the Trading Platform records the time the Trading Message was entered into the Trading Platform
under paragraph 4.1.1(2)(i) to maintain records of the date and time that a Trading Message gives rise to a Market Transaction	where the Trading Platform records the date and time of effecting of the Market Transaction
under subparagraph 4.1.2(2)(a)(i) to maintain records of the name of a person who made the decision, where that person is the DTR who entered the Trading Message	where the DTR identifier is contained in the Trading Message and recorded by the Trading Platform (the person who made the decision being taken to be the DTR whose identifier is so recorded)
under subparagraph 4.1.2(2)(a)(ii) to maintain records of the Financial Products to be bought or sold	where the Financial Products are entered into the Trading Platform for the particular Trading Message (which are taken to be the Financial Products decided or instructed to be bought or sold)
under subparagraph 4.1.2(2)(a)(iii) to maintain records of the number of Financial Products to be bought or sold	where the number of Financial Products is entered into the Trading Platform for the particular Trading Message (which is taken to be the number of Financial Products decided or instructed to be bought or sold)
under subparagraph 4.1.2(2)(a)(iv) to maintain records of price-related decisions to enter into a Market Transaction	where the price is entered into the Trading Platform for the particular Trading Message (which is taken to be the price at which the Financial Products are decided or instructed to be bought or sold)
under paragraph 4.1.2(2)(b) to maintain records of an amendment to a Trading Message	where the particulars of the Trading Message are entered into the Trading Platform
under paragraph 4.1.2(2)(d) to maintain records of the name of the DTR who entered the Trading Message	where the DTR identifier is contained in the Trading Message and recorded by the Trading Platform (the DTR who entered the Trading Message being taken to be the DTR whose identifier is so recorded)
under paragraph 4.1.2(2)(e) to maintain records of the time of a Trading Message	where the Trading Platform records the time the Trading Message was entered into the Trading Platform
under paragraph 4.1.2(2)(f) to maintain records of the time that a Trading Message gives rise to a Market Transaction	where the Trading Platform records the time of effecting of the Market Transaction

Note: There is no penalty for this Rule.

#### **4.1.7 Records of dealings for clients by a Market Participant who instructs another Trading Participant to execute the dealings**

A Market Participant that instructs another Trading Participant to enter into a Market Transaction on behalf of a person:

- (a) need not comply with paragraphs 4.1.1(2)(e), (f), (g), (h), (i) and (j) in respect of that instruction;
- (b) must maintain sufficiently detailed records in respect of such instruction showing:
  - (i) the name of the person who received the instructions;
  - (ii) the name of any person who passed the instruction on between the person who initially received the instruction and the person instructing the Trading Participant to enter into the Market Transaction;
  - (iii) the name of the person who instructed such Trading Participant to enter into the Market Transaction; and
  - (iv) the time the person instructed such Trading Participant to enter into the Market Transaction.

Maximum penalty: \$100,000

#### **4.1.8 Records of dealings on its Own Account by a Market Participant who instructs another Trading Participant to execute the dealings**

A Market Participant (whether or not it is a Trading Participant) that instructs a Trading Participant to enter into a Market Transaction on its behalf:

- (a) need not comply with paragraphs 4.1.2(2)(c), (d), (e) and (f) in respect of that instruction; and
- (b) must maintain sufficiently detailed records in respect of such instruction showing:
  - (i) the name of any person who passed the instruction on between the person who initially gave the instruction or made the decision and the Trading Participant instructed to enter into the Market Transaction;
  - (ii) the name of the person who instructed such Trading Participant to enter into the Market Transaction; and
  - (iii) the time the person instructed such Trading Participant to enter into the Market Transaction.

Maximum penalty: \$100,000

#### **4.1.9 Records regarding Authorised Persons**

A Trading Participant must maintain records of:

- (a) the name and contact details of an Authorised Person, and if that Authorised Person is an agent of another person, the details of that other person; and



- (b) the security arrangements regarding access by the Authorised Person to a computer or other device connected to the Trading Participant's Open Interface Device and its location or if not fixed, the method of identifying the computer or other device,

for a period of 7 years from the date the person ceases to be an Authorised Person.

Maximum penalty: \$100,000

#### **4.1.10 Telephone recording of client dealings—Futures Market Transactions**

(1) A Market Participant must record, by tape, telephone lines or other electronic device, all telephone conversations with clients in relation to its dealings in Futures Market Transactions including, without limitation, conversations relating to the receipt, transaction and confirmation of orders.

(2) The Market Participant must retain the records referred to in subrule (1) for at least 3 months.

Maximum penalty: \$100,000

## **Part 4.2 Records—General**

### **4.2.1 General recordkeeping requirements**

(1) A Market Participant must maintain accurate records in sufficient detail to show particulars of:

- (a) all money received or paid by the Market Participant, including trust account receipts and payments in a manner usual for a business of the kind being carried on by a Market Participant;
- (b) all transactions by the Market Participant with or for the account of:
  - (i) a person of a type described in Rule 5.4.1 or a Related Party;
  - (ii) other Market Participants; and
  - (iii) members of any overseas stock exchange;
- (c) all income from commissions, interest and other sources and all expenses, commissions and interest paid;
- (d) all assets and liabilities, including contingent liabilities of the Market Participant;
- (e) all Cash Market Products and Derivatives Market Contracts which are the property of the Market Participant, showing by whom they, or the documents of title to them, are held and if held otherwise than by the Market Participant, whether they are held as security for loans or advances;
- (f) all Cash Market Products and Derivatives Market Contracts which are not the property of the Market Participant but for which the Market Participant or any nominee

controlled by it is accountable, showing by whom and for whom such Financial Products and Derivatives Market Contracts are held and:

- (i) in respect of those which are held for safe custody details sufficient to identify such Cash Market Products and Derivatives Market Contracts;
- (ii) in respect of those which are held for any person or firm or corporation as security for loans or advances made by the Market Participant details sufficient to identify such Cash Market Products and Derivatives Market Contracts;
- (g) all dealings in Derivatives Market Contracts by the Market Participant and all fees (option moneys) arising there-from and any related covering transactions;
- (h) all confirmations issued by the Market Participant and details of any statements and specifications which are required by these Rules, the Market Operating Rules and the Corporations Act to appear on confirmations; and
- (i) all underwriting transactions entered into by the Market Participant.

(2) All Cash Market Products and Derivatives Market Contracts held for safe custody or whose certificates are held for safe custody must either be registered in the name of the client or the Market Participant's nominee.

(3) The holding of Cash Market Products and Derivatives Market Contracts for security must be authorised in writing by the owner thereof or some other person lawfully authorised to do so.

(4) An authority referred to in subrule (3) must specify the period for which such Cash Market Products and Derivatives Market Contracts or documents of title may be held.

Maximum penalty: \$100,000

#### **4.2.2 Client complaints—Records of complaints and correspondence**

(1) A Market Participant must keep the following records of complaints received from clients:

- (a) a copy of all written complaints;
- (b) a copy of all written correspondence between the Market Participant and the clients and a written summary of any oral communication in connection with a written complaint; and
- (c) any correspondence or documents relating to the resolution of a complaint through any complaints resolution scheme.

(2) A Market Participant must keep the records referred to in subrule (1) in respect of a complaint for at least 5 years from the date of the last correspondence in respect of that complaint.

Maximum penalty: \$1,000,000

## Part 4.3 Access to records

### 4.3.1 Records to be in writing and in English

(1) A Market Participant must keep all of the records it is required to maintain under this Chapter 4, in writing and in the English language or in a manner which will enable them to be readily accessible by ASIC and readily converted into writing in the English language.

(2) A Market Participant must, if directed by ASIC in writing to do so, convert records maintained under this Chapter 4 into writing and into English.

(3) A Market Participant must comply with a direction given under subrule (2) by the time specified by ASIC when giving the direction.

Maximum penalty: \$100,000

### 4.3.2 Records kept outside of Australia

(1) If the records which a Market Participant is required to maintain under this Chapter 4 are kept outside Australia:

- (a) the Market Participant must send, or cause to be sent, to Australia records which will enable true and fair financial statements to be prepared; and
- (b) the Market Participant must, if directed by ASIC in writing to do so, produce any of its records in Australia.

(2) A Market Participant must comply with any direction given by ASIC under paragraph (1)(b) by the time specified by ASIC when giving the direction.

Maximum penalty: \$100,000

## Chapter 5: Trading

### Part 5.1 Client order priority

#### 5.1.1 Application and meaning of dealing on “Own Account”

Subject to Rule 5.1.2, a reference to a Market Participant having an order for its own account means:

- (a) in relation to Cash Market Transactions, that the Cash Market Products to be bought or sold are (in the case of a sale) or will be on the completion of the transaction (in the case of a purchase) beneficially owned by the Market Participant or a Prescribed Person, where the Cash Market Products beneficially owned by a Market Participant or Prescribed Person include Cash Market Products which would appear as assets on the balance sheet or consolidated balance sheet of that Market Participant or Prescribed Person; and
- (b) in relation to Derivatives Market Transactions, having an order to enter into a Derivatives Market Transaction on its own behalf or for the benefit of a Prescribed Person.

Note: There is no penalty for this Rule.

#### 5.1.2 Exceptions

The following are not regarded as orders on a Market Participant’s own account:

- (a) an order placed by a life insurance company registered under the *Life Insurance Act 1995* (or equivalent State legislation) on behalf of a statutory fund;
- (b) an order placed by a Controller or a Related Body Corporate of the Market Participant or of a Controller on behalf of clients of, or funds managed by them or their Related Bodies Corporate.

Note: There is no penalty for this Rule.

#### 5.1.3 Fairness and priority in dealing

A Market Participant must deal fairly and in due turn with:

- (a) clients’ orders; and
- (b) a client order and an order on its Own Account.

Maximum penalty: \$1,000,000

#### 5.1.4 Relevant factors

(1) In considering whether Rule 5.1.3 has been complied with, the following factors are relevant:

- (a) the Market Participant acts in accordance with its instructions;

- (b) orders that do not involve the exercise of discretion by the Market Participant in relation to the time or price or quantity of the order are entered in a Trading Platform in the sequence in which they are received, and otherwise as expeditiously as practicable;
- (c) orders of a client (which is not a Prescribed Person) that involve the exercise of discretion by the Market Participant in relation to the time or price or quantity of the order are given preference, within the meaning of subrule (2), over orders on the Market Participant's Own Account, unless the client otherwise consents;
- (d) if the sequence of entry of orders into a Trading Platform is not clearly established by the time the orders were received, and one of the orders is for the Market Participant's Own Account, the Market Participant gives preference to the order of a client over any order for the Market Participant's Own Account;
- (e) if the Market Participant has acted in accordance with its procedures to ensure that a person initiating, transmitting or executing an order who is aware of instructions of a client (which is not a Prescribed Person) to deal in the relevant Products that has not been entered in a Trading Platform does not use that information to the disadvantage of that client;
- (f) the Market Participant buys or sells for a Wholesale Client;
- (g) allocation of Market Transactions occurs in accordance with Rule 5.1.5; and
- (h) a Market Participant's orders on its Own Account are not knowingly interposed between Orders of its clients that would otherwise have Crossed.

(2) In paragraph (1)(c), a reference to a Market Participant giving preference to an order of a client over an order on the Market Participant's Own Account, means that from the time of receipt of the order until it is fully executed, the Market Participant does not enter into, on its Own Account, a Market Transaction for the same Products on the same terms, having regard to subrule (3), unless:

- (a) the Products are allocated to the client in accordance with paragraph 5.1.6(c); or
- (b) the Products are allocated to the client pursuant to an allocation policy previously disclosed to the client, to which the client consents, under which the Market Participant may buy or sell (and be allocated) the same Products on its Own Account.

(3) For the purposes of subrule (2), a limit order which cannot be executed owing to price differences is not on the same terms.

(4) A Market Participant must keep a record of any consent given by a client for the purposes of paragraph (1)(c).

Note: There is no penalty for this Rule.

### 5.1.5 Fairness and priority in allocation

A Market Participant must allocate Market Transactions fairly.

Maximum penalty: \$1,000,000

### 5.1.6 Relevant factors

In considering whether Rule 5.1.5 has been complied with, the following factors are relevant:

- (a) allocation of Market Transactions is immediate and automatic, unless circumstances or instructions justify later or manual allocation;
- (b) Market Transactions executed pursuant to instructions (whether an order of a client or an order on its Own Account) are allocated in the sequence in which the Market Participant received those instructions, entered those instructions or the Market Transactions were effected;
- (c) the client's instructions;
- (d) allocation of a Market Transaction occurs in accordance with the disclosed allocation policy of the Market Participant; and
- (e) except as provided in these Rules or the Market Operating Rules, a Market Participant does not allocate Market Transactions to fulfil all or part of an order for its Own Account when it has an unfulfilled order on the same terms for those Market Transactions from a client.

Note: There is no penalty for this Rule.

### 5.1.7 Unexecuted order in Underlying Financial Products—Trading Participant not to make Bids or Offers

If a Trading Participant has or receives an Order to buy or sell an Underlying Financial Product in the Underlying Market which may materially affect:

- (a) the market price of the Underlying Financial Product in the Underlying Market; or
- (b) the level of an Underlying Index, the level of which is calculated by reference to the value of that Underlying Financial Product and other Products,

the Trading Participant must not make Bids or Offers to enter into an Options Market Transaction over that Underlying Financial Product as Principal until the order in the Underlying Financial Product has been executed in the Underlying Market.

Maximum penalty: \$1,000,000

### 5.1.8 Allocation policy and Automated Client Order Processing Crossings—disclosure to Client

(1) A Market Participant must when requested to do so by a person (the “**Client**”), disclose to the Client each of the following:

- (a) the policy it adopts in the allocation of Market Transactions to fill orders placed with it; and
- (b) in relation to Crossings under the Market Operating Rules:
  - (i) that the Client's orders may match opposite orders in a Trading Platform by the same Market Participant, effectively resulting in a Crossing and entitling the Market Participant to commission from both sides of the transaction; and

- (ii) if the Market Participant deals as Principal, that the Client's orders may match opposite orders in a Trading Platform on behalf of the same Market Participant as Principal.

(2) The Market Participant must keep a record of disclosures made under subrule (1).

Maximum penalty: \$20,000

## Part 5.3 Large Order facilitation

### 5.3.1 Futures Market Contracts—Action a Market Participant may take when insufficient opposite orders

(1) This Part 5.3 applies only to orders to deal in Futures Market Contracts.

(2) Where a Market Participant receives a Large Order from a client and there are insufficient opposite orders in the Central Orderbook at that time to satisfy that order:

- (a) the Market Participant may, with the written authority of the client, withhold transmission of the Large Order and solicit counterparties, disclose the relevant instructions and aggregate opposite orders from other clients;
- (b) when the Market Participant has solicited other counterparties under paragraph (a), the Market Participant must enter the Large Order into the Central Orderbook (or, where the counterparty orders are orders of other clients of the Market Participant, effect a Crossing in accordance with the Market Operating Rules); and
- (c) during the period in which the Market Participant solicits orders under paragraph (a) and until the Large Order has been entered or executed as a Crossing under paragraph (b), the Market Participant must not enter an opposite order.

Maximum penalty: \$100,000

### 5.3.2 Application

(1) For the purposes of this Part 5.3:

- (a) “**Large Order**” means an Order for a number of Futures Market Contracts that is greater than or equal to the number set out in subrule (2); and
- (b) where the Market Participant is a body corporate, a Related Body Corporate and a division of the Market Participant other than its futures division will each be regarded as “clients”.

(2) For the purposes of subrule (1):

- (a) for Futures Market Contracts which are Futures Market Contracts over an Underlying Index (other than Futures Market Contracts referred to in paragraph (b)), 750 contracts;
- (b) for Futures Market Contracts which are Futures Market Contracts over the Underlying Index which is known as the S&P/ASX 200 Property Trust Index Futures, 50 contracts;

- (c) for Futures Market Contracts which are Futures Market Contracts over an Underlying Commodity which is wool, 100 contracts;
- (d) for Futures Market Contracts which are Futures Market Contracts over an Underlying Commodity which is grain, 200 contracts.

Note: There is no penalty for this Rule.

## **Part 5.4 Transactions by connected persons (including persons connected with other Market Participants)**

### **5.4.1 Application**

In this Part 5.4, a reference to a connected person is a reference to the following persons:

- (a) an Employee;
- (b) a company controlled by an Employee; and
- (c) a Controlled Trust (other than a trust controlled by an Immediate Family of an employee or a trust in relation to which an Immediate Family of an Employee is a trustee or holds more than 50% of the whole beneficial interest).

Note: There is no penalty for this Rule.

### **5.4.2 Internal consent required for trading by connected persons**

(1) A Market Participant must not enter into a Market Transaction by or for the account of its connected persons, whether the Market Transaction is conducted through that Market Participant or through another Market Participant unless the Market Transaction has been approved in writing in accordance with subrule (4) by a Responsible Executive, director or partner of the Market Participant or a person with written delegation for that responsibility from a Responsible Executive, director or partner (other than the Employee concerned).

(2) A Market Participant must obtain a separate approval under subrule (1) for each relevant Market Transaction.

(3) A Market Participant must take reasonable steps to ensure that a person who approves a Market Transaction under subrule (1) takes into account the circumstances of the proposed transaction and anything which might materially affect the price of the relevant Cash Market Product (or, in the case of a Derivatives Market Transaction, the price or value of the relevant Contract Series) the subject of the Market Transaction.

(4) For the purposes of subrule (1), the approval in writing must include:

- (a) all the information required by Part 4.1 for orders, whether or not the Market Participant will be executing the order to which the approval relates; and
- (b) the date and time of approval.



(5) If a Market Transaction referred to in subrule (1) is conducted through another Market Participant, that Market Participant must, as soon as practicable after entering into the Market Transaction, give to the employing Market Participant a confirmation in respect of the Market Transaction.

Maximum penalty: \$100,000

## Part 5.5 Participant's trading infrastructure

### 5.5.1 Knowledge of Trading Participant

If a Trading Message embedded with a Trading Participant's unique identifier is submitted, the Trading Message is taken for all purposes under these Rules to have been submitted in a Trading Platform by or with the knowledge of the Trading Participant.

Note: There is no penalty for this Rule.

### 5.5.2 Organisational and technical resources

A Trading Participant must have and maintain the necessary organisational and technical resources to ensure that:

- (a) Trading Messages submitted by the Trading Participant do not interfere with:
  - (i) the efficiency and integrity of the Market; or
  - (ii) the proper functioning of a Trading Platform; and
- (b) the Trading Participant complies at all times with these Rules and the Market Operating Rules.

Maximum penalty: \$1,000,000

### 5.5.3 Trading management arrangements

A Trading Participant must have arrangements in place so that at all times the Trading Participant can determine the origin of all orders and Trading Messages, including:

- (a) the different stages of processing each order (regardless of whether a Trading Message is generated) and the time at which each stage of processing occurred;
- (b) the order that corresponds to a Trading Message;
- (c) the identity and capacity of the person placing the order that corresponds to the Trading Message;
- (d) whether the Trading Message was the result of Automated Order Processing;
- (e) the Open Interface Device and the computer or other device of the Trading Participant connected to an Open Interface Device of the Trading Participant through which the Trading Message was submitted;

- (f) the DTR with responsibility for that Open Interface Device or computer or other device connected to the Open Interface Device (unless the Trading Message was the result of Automated Order Processing); and
- (g) whether the Trading Message was submitted on the Trading Participant's Own Account or for a client.

Maximum penalty: \$1,000,000

#### **5.5.4 Trading management arrangements—Records**

A Trading Participant must maintain records of the matters referred to in Rule 5.5.3, for a period of 7 years from the date of the Trading Message to which the matters relate.

Maximum penalty: \$100,000

### **Part 5.6 Automated Order Processing—Filters, conduct, and infrastructure**

#### **5.6.1 Responsible use of system for Automated Order Processing**

(1) A Trading Participant which uses its system for Automated Order Processing must at all times:

- (a) have appropriate automated filters, in relation to Automated Order Processing; and
- (b) ensure that such use does not interfere with:
  - (i) the efficiency and integrity of the Market;
  - (ii) the proper functioning of any Trading Platform; or
  - (iii) the efficiency and integrity of any Crossing System operated by the Trading Participant.

(2) A Trading Participant does not have to ensure its system used for Automated Order Processing does not interfere with the efficiency and integrity of any Crossing System operated by the Trading Participant under subparagraph (1)(b)(iii) until six months have passed from the commencement of subparagraph (1)(b)(iii).

Maximum penalty: \$1,000,000

#### **5.6.2 Authorised Persons for Automated Client Order Processing**

A Trading Participant which uses its system for Automated Client Order Processing must also have procedures in place to ensure that each Authorised Person has demonstrated to the Trading Participant knowledge of the order entry system of the Trading Participant and of the Dealing Rules, directions, decisions and requirements of the Market Operator relevant to the type of order submission facilities given to the Authorised Person by the Trading Participant.

Maximum penalty: \$1,000,000

### 5.6.3 Automated Order Processing system requirements

(1) A Trading Participant which uses its system for Automated Order Processing must ensure that the system has in place:

- (a) organisational and technical resources, including having appropriate automated filters, filter parameters and processes to record any changes to the filters or filter parameters, to enable Trading Messages to be submitted into the Trading Platform without interfering with the efficiency and integrity of the Market or the proper functioning of the Trading Platform;
- (b) trading management arrangements, including having appropriate automated filters, filter parameters and processes to record any changes to the filters or filter parameters to enable the ready determination of the origin of all orders and trading messages;
- (c) security arrangements to monitor for and prevent unauthorised persons having access to a gateway or an Open Interface Device or to a computer or other device connected to an Open Interface Device, and to ensure that the Automated Order Processing system does not interfere with the efficiency and integrity of the Market or the proper functioning of the Trading Platform;
- (d) controls, including automated controls, that enable immediate suspension, limitation or prohibition of the conduct of all Automated Order Processing or Automated Order Processing in respect of:
  - (i) one or more Authorised Persons or clients;
  - (ii) Automated Client Order Processing; or
  - (iii) one or more Products; and
- (e) controls that enable immediate:
  - (i) suspension of, limitation of, or prohibition on, the entry into the Market of Trading Messages in a series of related Trading Messages where the Trading Participant has identified that Trading Messages in the series have entered the Market and have interfered with or are likely to interfere with the efficiency or integrity of the Market;
  - (ii) cancellation of Trading Messages in a series that have already entered the Market where the entry of further messages in the series has been suspended, limited or prohibited under subparagraph (i);
  - (iii) suspension of, limitation of, or prohibition on, the entry into any Crossing System operated by the Trading Participant of Orders in a series of related Orders where the Trading Participant has identified that Orders in the series have entered the Crossing System operated by the Trading Participant and have interfered with or are likely to interfere with the efficiency or integrity of the Crossing System; and
  - (iv) cancellation of Orders in a series that have already entered a Crossing System operated by the Trading Participant where the entry of further Orders in the series has been suspended, limited or prohibited under subparagraph (iii).

(2) A Trading Participant that uses its system for Automated Order Processing must have direct control over all automated filters and the filter parameters for those filters.

Maximum penalty: \$1,000,000

#### **5.6.4 Review of documentation and systems prior to use of Automated Order Processing system**

Before using their system for Automated Order Processing, a Trading Participant must, for the purposes of providing the certification referred to in Rule 5.6.6, perform a review of the Trading Participant's policies, procedures, system design documentation, including the Trading Participant's procedures for implementation of subsequent changes to the Automated Order Processing software, filters and filter parameters, and other relevant documentation concerning the Trading Participant's compliance with Part 5.6 of these Rules.

Maximum penalty: \$1,000,000

#### **5.6.5 Representations as to organisational and technical resources, trading management arrangements and security arrangements, prior to use of Automated Order Processing system**

(1) Before using their system for Automated Order Processing, the Trading Participant must, for the purposes of providing the certification referred to in Rule 5.6.6, obtain written representations that the Trading Participant has in place organisational and technical resources, arrangements and controls in relation to the system for Automated Order Processing that meet the requirements of Rule 5.6.3.

(2) The representations referred to in subrule (1) must:

- (a) be provided by persons who are suitably qualified and experienced in relation to the organisational and technical resources, arrangements and controls for which they are making the representation;
- (b) include the name of the person making the representation;
- (c) be signed and dated by the person making the representation; and
- (d) set out the methodology used by the person to enable them to make the representation.

Maximum penalty: \$1,000,000

#### **5.6.6 Certification of Automated Order Processing system**

(1) Before using their system for Automated Order Processing, a Trading Participant must:

- (a) give a written certification ("AOP Initial Certification") to ASIC that includes the matters set out in subrule (2); and
- (b) receive a written confirmation from ASIC that the AOP Initial Certification complies with subrule (2).

(2) The AOP Initial Certification given by the Trading Participant to ASIC must include:

- (a) the name of the Trading Participant;
- (b) the version number and name of the Trading Participant's Automated Order Processing system;
- (c) copies of the representations required by Rule 5.6.5 in relation to the system referred to in paragraph (b);
- (d) a confirmation by the Trading Participant that:
  - (i) the Trading Participant has performed the review required by Rule 5.6.4 and that nothing came to the attention of the Trading Participant during the course of that review which would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules;
  - (ii) based on the review required by Rule 5.6.4 and the representations required by Rule 5.6.5, the Trading Participant's Automated Order Processing system:
    - (A) does, or does not, permit Automated Client Order Processing, as the case may be; and
    - (A) meets the requirements of Rule 5.6.3; and
  - (iii) the representations required by Rule 5.6.5 have been made by persons whom the Trading Participant considers to be suitably qualified and experienced in relation to the organisational and technical resources, arrangements and controls for which they are making those representations;
- (e) the name of the directors of the Trading Participant referred to in subrule (3).

(3) At least two directors of the Trading Participant must sign and date the written certification referred to in subrule (2).

Maximum penalty: \$1,000,000

### 5.6.8 AOP Material Change Review

(1) Before making a material change to any of the organisational or technical resources, arrangements or controls employed to comply with Rule 5.6.3, the Trading Participant must ensure that an appropriately qualified person performs a review ("**AOP Material Change Review**") of the material changes to the Automated Order Processing system, the Trading Participant's policies, procedures, system design documentation, including the Trading Participant's procedures for implementation of subsequent changes to the Automated Order Processing software, filters and filter parameters and other relevant documentation concerning the Trading Participant's compliance with Part 5.6 of these Rules.

(2) Before implementing a material change the subject of an AOP Material Change Review the Trading Participant must, for the purposes of providing the AOP Annual Notification, obtain written representations from the person who performed the AOP Material Change Review that nothing came to the attention of the person during the course of the AOP

Material Change Review that would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules.

- (3) The representations referred to in subrule (2) must:
- (a) include the name of the person making the representation; and
  - (b) be signed and dated by the person making the representation.

Maximum penalty: \$100,000

### 5.6.8A AOP Annual Review

(1) Where a Trading Participant has not performed an AOP Material Change Review in relation to an Automated Order Processing system in the 12 months before the AOP Annual Review Date, the Trading Participant must, for the purposes of providing the AOP Annual Notification in relation to that Automated Order Processing system, ensure that an appropriately qualified person performs a review (“**AOP Annual Review**”) of the Automated Order Processing system, the Trading Participant’s policies, procedures, system design documentation, including the Trading Participant’s procedures for implementation of changes to the Automated Order Processing software, filters and filter parameters and other relevant documentation concerning the Trading Participant’s compliance with Part 5.6 of these Rules.

(2) The Trading Participant must, for the purposes of providing the AOP Annual Notification in relation to an Automated Order Processing system, obtain written representations from the person who performed the AOP Annual Review in relation to the Automated Order Processing system, that nothing came to the attention of the person during the course of the AOP Annual Review that would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules.

- (3) The representations referred to in subrule (2) must:
- (a) include the name of the person making the representation; and
  - (b) be signed and dated by the person making the representation.

Maximum penalty: \$100,000

### 5.6.8B AOP Annual Notification

(1) A Trading Participant must, within 10 Business Days of each AOP Annual Review Date, given a written notice (“**AOP Annual Notification**”) to ASIC that includes:

- (a) the name of the Trading Participant; and
- (b) the version number and name of the Trading Participant’s Automated Order Processing system; and
- (c) a confirmation by the Trading Participant that nothing came to the attention of the Trading Participant during the 12 months before the AOP Annual Review date that would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules; and

(d) the name of the directors of the Trading Participant referred to in subrule (2).

(2) At least two directors of the Trading Participant must sign and date the AOP Annual Notification.

Maximum penalty: \$100,000

### **5.6.11 Further certification**

(1) A Trading Participant must, if directed by ASIC in writing to do so, provide a further certification in a form acceptable to ASIC from an appropriately qualified person acceptable to ASIC as to compliance by the Trading Participant with the Automated Order Processing Requirements.

(2) A Trading Participant must comply with a direction under subrule (1) within the time specified in the direction.

Maximum penalty: \$100,000

### **5.6.12 Limitations on Automated Order Processing**

(1) This Rule applies where ASIC reasonably considers that:

- (a) a Trading Participant is not complying with the Automated Order Processing Requirements; or
- (b) it is otherwise appropriate to direct a Trading Participant to take the actions referred to in subrule (2).

(2) A Trading Participant must, if directed to do so by ASIC:

- (a) cease conducting Automated Order Processing until ASIC is satisfied that the Trading Participant complies with the Automated Order Processing Requirements; or
- (b) immediately suspend, limit or prohibit the conduct of Automated Order Processing in respect of:
  - (i) one or more Authorised Persons or clients;
  - (ii) Automated Client Order Processing;
  - (iii) Automated Order Processing; or
  - (iv) one or more Products,as required by the direction.

Maximum penalty: \$1,000,000

## Part 5.7 Manipulative trading

### 5.7.1 False or misleading appearance

A Market Participant must not make a Bid or Offer for, or deal in, any Products:

- (a) as Principal:
  - (i) with the intention; or
  - (ii) if that Bid, Offer or dealing has the effect, or is likely to have the effect, of creating a false or misleading appearance of active trading in any Product or with respect to the market for, or the price of, any Product; or
- (b) on account of any other person where:
  - (i) the Market Participant intends to create;
  - (ii) the Market Participant is aware that the person intends to create; or
  - (iii) taking into account the circumstances of the Order, a Market Participant ought reasonably suspect that the person has placed the Order with the intention of creating, a false or misleading appearance of active trading in any Product or with respect to the market for, or the price of, any Product.

Maximum penalty: \$1,000,000

### 5.7.2 Circumstances of Order

In considering the circumstances of the Order, the Market Participant must have regard to the following matters:

- (a) whether the Order or execution of the Order would be inconsistent with the history of or recent trading in that Product;
- (b) whether the Order or execution of the Order would materially alter the market for, or the price of, the Product;
- (c) the time the Order is entered or any instructions concerning the time of entry of the Order;
- (d) whether the person on whose behalf the Order is placed, or another person who the Market Participant knows to be a Related Party of that person, may have an interest in creating a false or misleading appearance of active trading in any Product or with respect to the market for, or the price of, any Product;
- (e) whether the Order is accompanied by settlement, delivery or security arrangements which are unusual;
- (f) where the Order appears to be part of a series of Orders, whether when put together with other Orders which appear to make up the series, the Order or the series is unusual having regard to the matters referred to in this Rule 5.7.2;



- (g) whether there appears to be a legitimate commercial reason for that person placing the Order, unrelated to an intention to create a false or misleading appearance of active trading in or with respect to the market for, or price of, any Product;
- (h) whether the transaction, bid or offer the execution of which is proposed will involve no change of beneficial ownership;
- (i) the frequency with which Orders are placed by a person;
- (j) the volume of Products the subject of each Order placed by a person; and
- (k) the extent to which a person amends or cancels an instruction to purchase or sell a Product relative to the number of transactions executed for that person.

Maximum penalty: \$1,000,000

### **5.7.3 Obligations apply to Automated Order Processing**

A Market Participant must also comply with this Part 5.7 in respect of Orders the subject of Automated Order Processing.

Note: There is no penalty for this Rule.

## **Part 5.8 Prohibition on wash trades, pre-arranged trades and dual trading—Futures**

### **5.8.1 Application of Rule 5.8**

This Part 5.8 applies to Futures Market Transactions only.

Note: There is no penalty for this Rule.

### **5.8.2 Wash trades**

A Market Participant must not effect any Futures Market Transaction where the account on behalf of which the Market Participant enters into the Futures Market Transaction is the same on both sides of that transaction.

Maximum penalty: \$100,000

### **5.8.3 Pre-arranged trades**

(1) A Market Participant must not give or accept a request or instructions that a Futures Market Transaction only be entered into between particular Market Participants.

(2) A Market Participant must not arrange a Futures Market Transaction with another Market Participant to the exclusion of other Market Participants.

Maximum penalty: \$100,000

#### 5.8.4 Dual trading

A Market Participant must ensure that arrangements are in place to ensure that a Representative responsible for placing orders for the Market Participant's own account does not have access to orders submitted by clients of the Market Participant before the client orders are transmitted for execution.

Maximum penalty: \$100,000

#### 5.8.5 Corners—Postponement of deliveries

When, in the opinion of ASIC, a person or two or more persons acting in concert have acquired such control of a Quoted Product that the Quoted Product cannot be obtained for delivery on existing contracts except at prices or on terms arbitrarily dictated by such persons which are unfair, harsh, or unconscionable, ASIC may:

- (a) for the purpose of enabling equitable settlement to be effected on these contracts, postpone (or from time to time further postpone) the times for deliveries on contracts for any such Quoted Product; and
- (b) at any time declare that if such Quoted Product is not delivered on any contract requiring delivery on or before the time to which delivery has been postponed such contract will be settled by payment to the party entitled to receive such Quoted Product or by the credit to such party of a fair settlement price determined under Rule 5.8.6.

Note: There is no penalty for this Rule.

#### 5.8.6 Establishment of a fair settlement price

If the parties to a contract referred to in Rule 5.8.5 do not agree on a fair settlement price and set a date for payment they must submit the differences or matter in dispute to arbitration by an independent arbiter capable of making an award on the difference or matters in dispute in accordance with the provisions of the *Commercial Arbitration Act 1984* (NSW).

Maximum penalty: \$20,000

### Part 5.9 Fair and orderly markets

#### 5.9.1 Market must remain fair and orderly

A Market Participant must not do anything which results in a market for a Product not being both fair and orderly, or fail to do anything where that failure has that effect.

Maximum penalty: \$1,000,000

### **5.9.2 Representative must be available**

A Trading Participant must ensure that a Representative of the Trading Participant is available to receive communications from other Trading Participants or from the Market Operator during the following times on a Trading Day:

- (a) in relation to Cash Market Products—from the beginning of Open Session State until the end of CSPA Session State;
- (b) in relation to Options Market Contracts and Futures Market Contracts—during Open Session State,

unless otherwise determined in writing by ASIC and notified to the Trading Participant.

Maximum penalty: \$100,000

### **5.9.3 Must not take advantage of breakdown or malfunction**

A Market Participant must not take advantage of a situation arising as a result of a breakdown or malfunction in the Market Operator's procedures or systems or an error in any Trading Message submitted by the Market Operator.

Maximum penalty: \$1,000,000

## **Part 5.10 Dealing in Cash Market Products**

### **5.10.1 Trading Participants may not deal in Cash Market Products for which Official Quotation will be sought**

Except as permitted in Rule 5.10.2, a Trading Participant is prohibited, either in its own office or elsewhere, from making quotations or dealing in a new issue or placement of Cash Market Products (except Loan Securities):

- (a) made for the purpose of qualifying a company for admission to the Official List; or
- (b) for which Official Quotation will be sought,

until those Cash Market Products have been granted Official Quotation.

Maximum penalty: \$100,000

### **5.10.2 When Trading Participants may deal in Cash Market Products for which Official Quotation will be sought**

Notwithstanding Rule 5.10.1 but subject to any other provisions of these Rules and the Market Operating Rules, a Trading Participant may deal in Cash Market Products to which Rule 5.10.1 applies in the following circumstances:

- (a) a Trading Participant may underwrite or sub-underwrite a new issue or placement of Cash Market Products;
- (b) a Trading Participant may dispose of Cash Market Products if those Cash Market Products comprise an underwriting or sub-underwriting shortfall;
- (c) where the Cash Market Products have been issued on a pro-rata basis to holders;
- (d) where a listed entity acquires assets and as part or full consideration, issues new Cash Market Products (except Loan Securities) to the vendor and the Trading Participant:
  - (i) has made a prior firm arrangement with the vendor to place these Cash Market Products as soon as they are issued; and
  - (ii) ensures that the details of the issue to the vendor are advised to the Market by the listed entity immediately the Cash Market Products are issued;
- (e) where a Trading Participant:
  - (i) makes a placement of new Cash Market Products (except Loan Securities) for which Official Quotation will be sought, and the Trading Participant ensures that all investors accepting the Cash Market Products are informed in writing that Trading Participants cannot deal in the Cash Market Products either as Principal or agent until Official Quotation is granted in respect of those Cash Market Products;
  - (ii) accepts selling orders in Cash Market Products (except Loan Securities) for which Official Quotation will be sought, and the Trading Participant takes all reasonable steps to ensure that the Cash Market Products are not sold before the Cash Market Products have been granted Official Quotation; or
  - (iii) accepts selling orders in Cash Market Products (except Loan Securities) where the Cash Market Products are of the same class as Cash Market Products which have already been granted Official Quotation and:
    - (A) the Cash Market Products have already been issued by the Issuer; and
    - (B) the fact that the Cash Market Products have been issued has been notified to, and released to the Market by, the Company Announcements Office of the Market Operator;
- (f) a Trading Participant may dispose of or acquire ETF Securities which are the subject of a subscription application if:
  - (i) the ETF Securities are in a class of ETF Securities which are quoted on the Market;
  - (ii) the subscription application is irrevocable and subject only to transfer of the subscription consideration from the subscriber to the Issuer;
  - (iii) the disposal or acquisition is made on the Market in accordance with these Rules and the Market Operating Rules;
  - (iv) there is an arrangement between the Issuer and the Market Operator under which the ETF Securities will be granted Official Quotation before settlement of the disposal or acquisition; and
  - (v) the number of ETF Securities on issue is regularly reported to the Market Operator on the basis required by the Market Operator.

Note: There is no penalty for this Rule.

### **5.10.3 Dealings in Securities for which Official Quotation will not be sought**

A Trading Participant may deal in new Securities issued by a listed entity for which Official Quotation will not be sought 24 hours after that entity has advised the Market of the details of the issue.

Note: There is no penalty for this Rule.

### **5.10.4 Dealings in Cash Market Products suspended from Official Quotation**

A Trading Participant must not deal in Cash Market Products which have been suspended from quotation or trading unless the Cash Market Product is an Equity Market Product that is quoted on another Equity Market and is not in a Trading Suspension on that Equity Market.

Maximum penalty: \$100,000

### **5.10.5 Disclosure of shortfall—Must disclose to Client**

A Market Participant, an Employee or a director of a Market Participant or a company which is a partner of a Market Participant who or which will be required to acquire Cash Market Products as underwriter or sub-underwriter must not offer such Cash Market Products to clients unless:

- (a) they first inform the clients concerned of the closing date of the issue or offering of the Cash Market Products and the reasons for the acquisition; or
- (b) the offer to the client is made more than 90 days from the closing date.

Maximum penalty: \$100,000

### **5.10.6 Expenses—Reimbursement for out-of-pocket expenses**

Where a Trading Participant seeks out-of-pocket expenses involved in the purchase or sale of Cash Market Products, the Trading Participant must not cover that charge by an increase or reduction in the price of the Cash Market Products.

Maximum penalty: \$100,000

### **5.10.7 Nominee holdings—Restrictions on when an Equity Security can be recorded in the name of a nominee company**

(1) A Market Participant must not cause the ownership of an Equity Security of which it is not the beneficial owner to be registered in its own name or in the name of its partners, directors or Employees.

(2) A Market Participant may only cause the ownership of an Equity Security referred to in subrule (1) to be registered in the name of a nominee company which:

- (a) unless otherwise agreed by ASIC, is incorporated in Australia with a name which contains the word “nominee”;
- (b) has a constitution which precludes the nominee company from owning any Equity Security or other property except cash beneficially; and
- (c) is a directly legally and beneficially wholly owned subsidiary of the Market Participant which is operated by the Market Participant unless the Market Participant is a Clearing Participant who appoints a Settlement Participant as its agent in accordance with the Clearing Rules.

Maximum penalty: \$100,000

## Part 5.11 Suspicious activity reporting

### 5.11.1 Notification requirement

(1) Subject to subrules (2) and (3), if a Market Participant has reasonable grounds to suspect that:

- (a) a person (“the Insider”) has placed an order into or entered into a transaction on the Market in relation to a financial product while in possession of inside information (within the meaning of section 1042A of the Corporations Act), whether or not the Market Participant is aware of:
  - (i) the identity of the Insider; or
  - (ii) all of the details of the order or transaction; or
- (b) a transaction or an order transmitted to a Trading Platform has or is likely to have the effect of:
  - (i) creating an artificial price for trading in financial products on the Market;
  - (ii) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in financial products on the Market;
  - (iii) creating, or causing the creation of, a false or misleading appearance of active trading in financial products on the Market; or
  - (iv) creating, or causing the creation of, a false or misleading appearance with respect to the market for, or the price for trading in, financial products on the Market, whether or not the Market Participant is aware of:
    - (v) the intention of any party to the transaction or order; or
    - (vi) all of the details of the transaction or order,

the Market Participant must, as soon as practicable, notify ASIC in writing of the details of the transaction or order (to the extent known to the Market Participant) and the reasons it suspects the matter set out in paragraphs (a) and/or (b).

(2) A Market Participant is not required to notify ASIC under subrule (1) if the Market Participant has reported the information that would otherwise be required to be contained in

the notification to ASIC under subrule (1) to the Australian Transaction Reports and Analysis Centre under section 41 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* or under section 16 of the *Financial Transaction Reports Act 1988*.

(3) A Market Participant is not required to comply with subrule (1) until 1 November 2012.

Maximum penalty: \$20,000

### **5.11.2 Confidentiality**

A Market Participant who notifies ASIC under subrule 5.11.1(1) must not disclose that the notification was made, or the information contained in the notification, to any person other than:

- (a) for the purposes of seeking legal advice; or
- (b) as required by law.

Maximum penalty: \$20,000

## Chapter 6: Takeovers

### Part 6.1 Market Bid—Announcements by Market Participant

#### 6.1.1 Announcement of Market Bid

(1) A Market Participant acting on behalf of a Bidder in relation to a Market Bid must announce the bid to the Market in accordance with subrule (2).

(2) For the purposes of subrule (1), the announcement must include the following information:

- (a) a description of the Bid Class of Cash Market Products in the Target and the total number of Cash Market Products in that Bid Class;
- (b) the price offered for Cash Market Products in the Bid Class;
- (c) the date of the commencement and conclusion of the Offer Period;
- (d) the number of Cash Market Products in the Bid Class that the Bidder had a relevant interest in immediately prior to the announcement (expressed as a percentage of the total number of Cash Market Products in the Bid Class); and
- (e) a statement:
  - (i) as to whether the Bidder will buy Cash Market Products in the Bid Class On-Market before the Offer Period commences and, if so, the maximum number of those Cash Market Products to be bought and the price that will be paid;
  - (ii) that the Market Bid is an offer to buy all the Cash Market Products in the Bid Class that exist or will exist at any time during the Offer Period for the price offered; and
  - (iii) that the Offer Period may be extended and the offer price may be increased in accordance with the Corporations Act.

Maximum penalty: \$100,000

#### 6.1.2 Announcement of variations to Market Bid

A Market Participant acting on behalf of a Bidder in relation to a Market Bid must announce to the Market, in writing:

- (a) an increase to the price offered for Cash Market Products in the Bid Class;
- (b) an extension to the Offer Period;
- (c) a withdrawal of the Market Bid;
- (d) any other variation to the Market Bid in accordance with the Corporations Act; or
- (e) if the Market Participant ceases to act on behalf of the Bidder.

Maximum penalty: \$100,000



## Part 6.2 Acquisition of Cash Market Products during the Bid Period

### 6.2.1 Acquisition of Cash Market Products by Bidder

(1) This rule applies to both Market Bids and Off-Market Bids.

(2) A Market Participant acting on behalf of a Bidder must not offer to buy on behalf of the Bidder Cash Market Products in the Bid Class On-Market during the Bid Period for a price that varies from the consideration offered under the Takeover Bid unless and until an announcement has been made to the Market.

(3) For the purposes of subrule (2), the announcement must be made in writing, by facsimile or electronic delivery to the Market Operator.

Maximum penalty: \$100,000

### 6.2.2 Acquisition of Cash Market Products by another Bidder

(1) Where Cash Market Products are subject to a Market Bid, a Market Participant acting on behalf of another Bidder, must not buy the Cash Market Products in the Bid Class of the Target on behalf of that Bidder unless and until the Market Participant has announced in accordance with subrule (2):

- (a) a Market Bid on behalf of the person pursuant to Rule 6.1.1; or
- (b) an increase in the price offered under a Market Bid for the Cash Market Products pursuant to Rule 6.1.2.

(2) For the purposes of subrule (1), the announcement must be made in writing, by facsimile or electronic delivery to the Market Operator.

Maximum penalty: \$100,000

## Part 6.3 Market Participant acting for Bidder or Issuer

### 6.3.1 Market Participant to advise seller if acting for Bidder or Issuer

Where a Market Participant:

- (a) has an order from the Bidder in relation to an Off-Market Bid;
- (b) has made an announcement to the Market on behalf of a Bidder to acquire Cash Market Products under a Market Bid; or
- (c) acts for a company involved in a buy-back under Chapter 2J of the Corporations Act conducted On-Market,

the Market Participant must not accept, or transact, an order to sell Cash Market Products in the Bid Class referred to in paragraph (a) or subject to the announcement referred to in paragraph (b) or subject to the buy-back referred to in paragraph (c) unless the Market Participant:

- (d) advises the seller that it is acting for the Bidder or that it is acting for the company involved in the buy-back and is thus unable to give the seller advice in respect of the proposed sale; and
- (e) does not give the seller any advice in respect of the proposed sale.

Maximum penalty: \$100,000

## Chapter 7: Rules applying to Market Operators

### Part 7.1 Data feeds

#### 7.1.1 Provision of live electronic data from the Trading Platform

(1) The Market Operator must deliver, or procure delivery of, a live feed of the electronic data items set out in subrule (2) as generated on or by its Trading Platform to ASIC or to a service provider nominated by ASIC and notified to the Market Operator in accordance with Rule 7.1.2.

##### Order information from Trading Platform

(2) Electronic data provided pursuant to subrule (1) must contain such data items and fields which are generated on or by the Market Operator's Trading Platform containing all Orders entered on the Market Operator's Trading Platform, being:

- (a) order price and volume entries;
- (b) order amendments;
- (c) trade price and volume entries;
- (d) any special trade condition codes;
- (e) broker number and identifier code;
- (f) participant operator cross-reference data, where that data is available;
- (g) information comprising details of the Financial Products traded through the Trading Platform, being:
  - (i) name of Issuer or publicly available issuer code;
  - (ii) tick size;
  - (iii) lot size;
  - (iv) basis of quotation;
  - (v) time stamps on all order entries, trades, amendments, cancellations and deletions; and
  - (vi) unique order identifier or, if this is not available, unique order series identifier;
- (ga) information for the order or trade recorded by the Market Operator in accordance with subrule 5A.2.2(1) of the Competition Market Integrity Rules; and
- (h) such additional data items or fields notified by ASIC to the Market Operator under Rule 7.1.2 which are generated on or by the Market Operator's Trading Platform, provided that a Market Operator is not required to provide fields that are not generated on or by the Market Operator's Trading Platform.

##### Format requirements

(3) The electronic data required by subrule (1) must be in such format as ASIC notifies the Market Operator in accordance with Rule 7.1.2.

**Data security and redelivery**

(4) The electronic data required by subrule (1) must:

- (a) comply with any data security requirements as notified by ASIC to the Market Operator under Rule 7.1.2; and
- (b) be redelivered by the Market Operator if there is disruption to the telecommunications link through which the data is provided or for any other reason ASIC does not receive the data, and ASIC notifies the Market Operator in accordance with Rule 7.1.2 that ASIC requires the data to be redelivered.

**Delivery requirements**

(5) The electronic data required by subrule (1) must be delivered by the Market Operator to ASIC or its nominated service provider in a manner and to a location notified by ASIC to the Market Operator in accordance with Rule 7.1.2.

Maximum penalty: \$1,000,000

**7.1.2 Notification**

A notification by ASIC to the Market Operator of:

- (a) a service provider under subrule 7.1.1(1);
- (b) additional data items under paragraph 7.1.1(2)(h);
- (c) data format requirements under subrule 7.1.1(3);
- (d) data security requirements or to redeliver data under subrule 7.1.1(4); or
- (e) a manner and, or, location of delivery under subrule 7.1.1(5),

must be in writing and allow the Market Operator a reasonable period to comply.

Note: There is no penalty for this rule.

**Part 7.2 Information****7.2.1 Provision of information about Market Participants**

The Market Operator must maintain the information specified below about each Market Participant and advise ASIC in writing of any changes which are made to the information (including any changes resulting from the admission of new Market Participants) within 2 Business Days of the change being made:

- (a) Market Participant name;
- (b) the unique identifier that is used by the Market Operator to identify the trading activities of the Market Participant on the Market Operator's Trading Platform;
- (c) Market Participant type, being:
  - (i) Trading Participant;
  - (ii) Market Maker; or

- (iii) Principal Trader; and
- (d) the type of permissions provided to each Market Participant, being permissions to trade:
  - (i) Cash Market Products; or
  - (ii) Derivatives Market Contracts.

Maximum penalty: \$100,000

# Chapter 10: Futures Market Transactions

## Part 10.A Interpretation

### 10.A.1 Definitions

In this Chapter:

“**Alternative Clearing Facility**” means a CS Facility which, in the opinion of ASIC, has:

- (a) adequate rules or procedures relating to the operation of the facility, including effective risk management procedures;
- (b) adequate arrangements for supervision and regulation of the facility; and
- (c) sufficient resources to conduct the facility and perform its supervisory and regulatory functions, and which is recognised by ASIC as an Alternative Clearing Facility for the purposes of these Rules.

“**Approved Clearing Facility**” means ASX Clear Pty Limited (ACN 001 314 503).

“**Clearing Agreement**” means a separate written agreement between a Trading Participant which is not a Clearing Participant and a Clearing Participant setting out the terms and conditions which govern their relationship in compliance with the requirements of the Clearing Rules.

Note: There is no penalty for this Rule.

## Part 10.1 Payment by client

### 10.1.1 Application

Rules 10.1.2 to 10.1.7 apply only where the Market Participant is regarded as the client of a Clearing Participant and holds positions in Futures Market Transactions on an omnibus basis for its own clients.

Note: There is no penalty for this Rule.

### 10.1.2 Initial Margin

(1) Where a Market Participant is required to pay an amount of Initial Margin to a Clearing Participant (or to a participant of an Alternative Clearing Facility) in respect of positions the Market Participant holds for the benefit of one or more of its clients, the Market Participant must, in turn, call a corresponding amount from the relevant client or clients.

(2) Subject to Rule 10.1.4, the call must be made in sufficient time to ensure that the Market Participant is placed in funds before the Market Participant is obliged to pay the corresponding amount to the Clearing Participant or, if applicable, the participant of an Alternative Clearing Facility.

(3) A Market Participant that is required to comply with this Part in relation to a client must have in place arrangements with that client that entitle the Market Participant, at any time, to ask the client to pay any additional amount which the Market Participant considers appropriate to manage the risk to which the Market Participant is exposed.

Maximum penalty: \$100,000

### **10.1.3 Close out, settlement or daily settlement of Open Contracts**

(1) A Market Participant that is required to comply with this Part in relation to a client must have in place arrangements with that client that entitle the Market Participant to call from the client an amount sufficient to cover amounts which the Market Participant has been required to pay to its Clearing Participant pursuant to the close out, settlement or daily settlement of Open Contracts under the Clearing Rules (or to a participant of an Alternative Clearing Facility under the rules of that facility).

(2) Subject to Rule 10.1.4, if, at any time, the net amount of those amounts payable by the client under subrule (1) exceeds 25% of the amount of Initial Margin called under Rule 10.1.2, the Market Participant must call that amount.

(3) This Rule does not prevent the Market Participant from calling the amount at an earlier time or from calling an additional amount which it considers appropriate to manage the risk to which it is exposed.

Maximum penalty: \$100,000

### **10.1.4 Exception**

A Market Participant is not required to make a call under Rule 10.1.2 or Rule 10.1.3 if:

- (a) (in the case of a call under Rule 10.1.3 in relation to settlement amounts generated as a result of close outs, contract settlement or daily settlement of Open Contracts) the amount of the call at that time is less than \$1000;
- (b) the client has already paid that amount to the relevant Market Participant; or
- (c) the client has provided security for that amount to the relevant Market Participant (or to an Approved Clearing Facility on behalf of the Clearing Participant or an Alternative Clearing Facility, if applicable, on behalf of a participant) which is acceptable to the relevant Market Participant.

Note: There is no penalty for this Rule

### **10.1.5 Arrangements with client—Payment and security**

A Market Participant that is required to comply with this Part in relation to a client must have in place arrangements with the client that require the client to, by the time specified in the relevant Client Agreement:

- (a) pay to the Market Participant any amounts which the Market Participant asks the client to pay under Rule 10.1.2 or Rule 10.1.3; or
- (b) provide security for the amounts referred to in paragraph (a) which is acceptable to the Market Participant.

Maximum penalty: \$100,000

### **10.1.6 Arrangements with client—Default timing**

If no time is agreed between the Market Participant and the client for the purpose of Rule 10.1.5, the Market Participant must have in place arrangements with the client that require the client to meet its obligations under Rule 10.1.5 within 24 hours after the request for payment.

Maximum penalty: \$100,000

### **10.1.7 Arrangements with client—Maximum time**

The time agreed between the Market Participant and its client for the purpose of Rule 10.1.5 must not be later than 48 hours after the request for payment.

Maximum penalty: \$100,000

## **Part 10.2 Death of client and other circumstances**

### **10.2.1 Application**

Rules 10.2.2 to 10.2.6 apply only where the Market Participant is regarded as the client of a Clearing Participant and holds positions in Futures Market Contracts on an omnibus basis for its own clients.

Note: There is no penalty for this Rule

### **10.2.2 Death of client—Where legal representative unable to be identified**

If a Market Participant becomes aware of the death of a client and, after reasonable enquiry, the Market Participant does not know the identity of the legal representative of the client, the Market Participant may exercise the powers under Rule 10.2.5 where the Market Participant had in place arrangements with the Client as required by that Rule.

Note: There is no penalty for this Rule

### **10.2.3 Death of client—Where no undertaking by legal representative**

If:

- (a) a Market Participant becomes aware of the death of a client;



- (b) the Market Participant knows the identity of the legal representative who has been appointed to the client's estate; and
- (c) the legal representative does not, after being requested by the Market Participant, undertake to meet the client's obligations in respect of one or more Open Contracts for the benefit of the client's estate,

the Market Participant may exercise the powers under Rule 10.2.5 in respect of those Open Contracts for which the undertaking referred to in paragraph (c) is not given by the legal representative and where the Market Participant had in place arrangements with the Client as required by that Rule.

Note: There is no penalty for this Rule

#### **10.2.4 Other circumstances—Where client unable to be contacted**

If the Market Participant, after reasonable enquiry, has been unable to contact a client to obtain instructions in respect of the exercise of any rights or the performance of any obligations in connection with an Open Contract, the Market Participant may exercise the powers under Rule 10.2.5 where the Market Participant has in place arrangements with the Client as required by that Rule.

Note: There is no penalty for this Rule

#### **10.2.5 Death of client and other circumstances—Prior arrangements with client**

A Market Participant that is required to comply with this Part in relation to a client must have in place arrangements with that client such that if Rules 10.2.2, 10.2.3 or 10.2.4 apply, the Market Participant may, without giving prior notice to the client or the legal representative (as the case may be), take any action, or refrain from taking action, which it considers reasonable in the circumstances in connection with Open Contracts held for the benefit of the relevant client or the estate of the client (as the case may be) and, without limitation, the Market Participant may:

- (a) enter into, or cause to be entered into, one or more Futures Market Transactions to effect the close out of one or more Open Contracts;
- (b) exercise one or more Options Market Contracts; or
- (c) exercise, or cause to be exercised, any other rights conferred by the Rules or the Client Agreement or perform any other obligations arising under the Rules or the Client Agreement in respect of those Open Contracts,

and the client or the estate of the client (as the case may be) will be required to account to the Market Participant as if those actions were taken on the instructions of the client and, without limitation, will be liable for any deficiency and entitled to any surplus which may result.

Note: There is no penalty for this Rule

### 10.2.6 Records

A Market Participant must keep records in writing containing full particulars of all enquiries made and action taken under Rules 10.2.1 to 10.2.5.

Maximum penalty: \$100,000

## Part 10.3 Default by a client

### 10.3.1 Application

Rule 10.3.2 applies only where the Market Participant is regarded as the client of a Clearing Participant and holds positions in Futures Markets Contracts on an omnibus basis for its own clients.

Note: There is no penalty for this Rule

### 10.3.2 Default by a client—Prior arrangements with client

A Market Participant that is required to comply with this Part in relation to a client must have in place arrangements with that client such that if:

- (a) a client fails to pay, or provide security for, amounts payable to the Market Participant under Rule 10.1.2 or Rule 10.1.3;
- (b) a client fails to discharge any obligation in connection with the settlement of an Open Contract in accordance with its terms; or
- (c) any other event occurs which the Market Participant and the client have agreed entitles the Market Participant to take action in respect of the client,

the Market Participant may exercise any rights which the Market Participant has under these Rules, the Client Agreement, the Clearing Agreement or otherwise and such that the client will be required to account to the Market Participant for any deficiency and will be entitled to any surplus which may result from the exercise of those rights.

Maximum penalty: \$100,000

# Notes to ASIC Market Integrity Rules (ASX Market) 2010

ASIC Market Integrity Rules (ASX Market) 2010 (in force under s798G(1) of the Corporations Act 2001) as shown in this compilation comprises those Rules amended as indicated in the tables below.

## Table of Instruments

Instrument name	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
ASIC Market Integrity Rules (ASX Market) 2010 (F2010L02211)	01/08/2010	01/08/2010	-
ASIC Market Integrity Rules (ASX Market) Amendment 2011 (No. 1) (F2011L00217)	10/02/2011	11/02/2011	-
ASIC Market Integrity Rules (ASX Market) Amendment 2011 (No. 2) (F2011L01573)	29/07/2011	01/08/2011	-
ASIC Market Integrity Rules (ASX Market) Amendment 2011 (No. 3) (F2011L02145)	28/10/2011	31/10/2011	-
ASIC Market Integrity Rules (ASX Market) Amendment 2012 (No. 1) (F2012L01562)	17/07/2012	18/07/2012	-
ASIC Market Integrity Rules (ASX Market) Amendment 2012 (No. 2) (F2012L01573)	18/07/2012	19/07/2012	-
ASIC Market Integrity Rules (ASX Market) Amendment 2012 (No. 3) (F2012L02248)	26/11/2012	Items [30] to [34] of Schedule 1: 27/11/2012  All Items other than Items [30] to [34] of Schedule 126/05/2014	-
<b>as amended by</b>			
ASIC Market Integrity Rules (ASX Market) Amendment 2013 (No.2) (F2013L01555)	09/08/2013	Items [1] to [3] of Schedule 2: 10/08/13	
ASIC Market Integrity Rules (ASX Market) Amendment 2013 (No.1) (F2013L00561)	27/03/2013	28/03/2013	

Instrument name	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
<i>ASIC Market Integrity Rules (ASX Market) Amendment 2013 (No.2)</i> (F2013L01555)	09/08/2013	Items [1], [7] to [10] of Schedule 1: 10/08/13 Items [2] and [3] of Schedule 1: 9/11/13 Items [5], [6] and [11] to [13] of Schedule 1: 9/02/14 Item [4] of Schedule 1: 26/05/14	Commencement of item [4] of Schedule 1 as amended by item [1] of Schedule. 1 of F2014L00514
<b>as amended by</b>			
<i>ASIC Market Integrity Rules (ASX Market) Amendment 2014 (No.2)</i> (F2014L00514)	08/05/2014	09/05/2014	
<i>ASIC Market Integrity Rules (ASX Market) Amendment 2014 (No. 1)</i> (F2014L00128)	07/02/2014	09/02/2014	
<i>ASIC Market Integrity Rules (ASX Market) Amendment 2014 (No. 3)</i> (F2014L01023)	25/07/2014	26/07/2014	
<i>ASIC Market Integrity Rules (ASX Market) Amendment 2015 (No. 1)</i> (F2015L00622)	01/05/2015	02/05/2015	

## Table of Amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Rule 1.4.3	am. F2011L02145, Schedule 1, items [1] to [12], am. F2012L01573, paragraph 4, items [1] and [2], am. F2013L00561, Schedule 1, items [1] to [3], am. F2013L01555, Schedule 1, item [1], am.F2012L02248, Schedule 1, items [1] to [4]
Rule 2.1.4(2)(b)(i)	am. F2011L00217, paragraph 4
Rule 2.2.3	rep. F2015L00622, Schedule 1, item [1]
Part 2.6	ad. F2011L02145, Schedule 1, item [13]
Rule 3.2.4(1)	am. F2013L01555, Schedule 1, item [2]

Provision affected	How affected
Rule 3.2.5(1)(e)	am. F2013L01555, Schedule 1, item [3]
Rule 3.3.1(a)	am. F2011L02145, Schedule 1, item [14]
Rule 3.3.1(d)	am. F2011L02145, Schedule 1, item [15]
Rule 3.4.3	rs. F2013L01555, Schedule 1, item [4]
Rule 5.1.4(1)(g)	am. F2013L01555, Schedule 1, item [5]
Rule 5.1.4(1)(h)	ad. F2013L01555, Schedule 1, item [6]
Part 5.2	rep. F2015L00622, Schedule 1, item [2]
Rule 5.6.1	am. F2013L01555, Schedule 1, item [7]
Rule 5.6.1(b)(i)	am. F2013L01555, Schedule 1, item [8]
Rule 5.6.1(b)(ii)	am. F2013L01555, Schedule 1, item [9]
Rule 5.6.1(b)(iii)	ad. F2013L01555, Schedule 1, item [10]
Rule 5.6.1(2)	ad. F2013L01555, Schedule 1, item [10]
Rule 5.6.3	am. F2012L02248, Schedule 1, item [5]
Rule 5.6.3(b)	am. F2012L02248, Schedule 1, item [6]
Rule 5.6.3(c)	am. F2012L02248, Schedule 1, items [7] and [8]
Rule 5.6.3(d)	ad. F2012L02248, Schedule 1, item [9]
Rule 5.6.3(e)	ad. F2012L02248, Schedule 1, item [9]
Rule 5.6.3(2)	ad. F2012L02248, Schedule 1, item [10]
Rule 5.6.5(1)	am. F2012L02248, Schedule 1, item [11]
Rule 5.6.5(2)	am. F2012L02248, Schedule 1, item [12]
Rule 5.6.5(2)(a)	am. F2012L02248, Schedule 1, items [13] and [14]
Rule 5.6.5(2)(c)	am. F2012L02248, Schedule 1, item [15]
Rule 5.6.6(1)(a)	am. F2012L02248, Schedule 1, item [16]
Rule 5.6.6(1)(b)	am. F2012L02248, Schedule 1, item [17]
Rule 5.6.6(2)	am. F2012L02248, Schedule 1, item [18]
Rule 5.6.6(2)(d)(iii)	am. F2012L02248, Schedule 1, item [19]
Rule 5.6.7	rep. F2012L02248, Schedule 1, item [20]

Provision affected	How affected
Rule 5.6.8 (heading)	am. F2012L02248, Schedule 1, item [21]
Rule 5.6.8	am. F2012L02248, Schedule 1, items [22] to [25]
Rule 5.6.8(2)	ad. F2012L02248, Schedule 1, item [26]
Rule 5.6.8A	ad. F2012L02248, Schedule 1, item [27]
Rule 5.6.8B	ad. F2012L02248, Schedule 1, item [27]
Rule 5.6.9	rep. F2012L02248, Schedule 1, item [28]
Rule 5.6.10	rep. F2012L02248, Schedule 1, item [29]
Rule 5.7.2(g)	am. F2013L01555, Schedule 1, item [11]
Rule 5.7.2(h)	am. F2013L01555, Schedule 1, item [12]
Rule 5.7.2(i),(j),(k)	ad. F2013L01555, Schedule 1, item [13]
Rule 5.10.4	am. F2011L02145, Schedule 1, item [16]
Part 5.11	ad.F2012L01562, paragraph 4, item [1]
Part 5.12	ad. F2012L01573, paragraph 4, item [3]; rep F2014L01023, Schedule 1, item [1].
Rule 5.12.2	am. F2014L00128, Schedule 1, item [1]
Part 6.4	rep. F2015L00622, Schedule 1, item [3]
Part 6.4, heading	am. F2011L02145, Schedule 1, item [17]
Rule 6.4.1, heading	am. F2011L02145, Schedule 1, item [18]
Rule 6.4.1	am. F2012L02248, Schedule 1, item [30]
Subrule 6.4.1(2)	am. F2011L02145, Schedule 1, item [19]
Rule 6.4.3, heading	am. F2011L02145, Schedule 1, item [20]
Rule 6.4.3	am. F2012L02248, Schedule 1, item [31]
Subrule 6.4.3(2)	am. F2011L02145, Schedule 1, item [21]
Part 6.5	rep. F2015L00622, Schedule 1, item [4]
Part 6.6	rep. F2015L00622, Schedule 1, item [5]
Rule 7.1.1(2)(g)(vi)	am. F2012L02248, Schedule 1, item [32]
Rule 7.1.1(2)(g)	ad. F2012L02248, Schedule 1, item [33]
Rule 7.1.2, Note	ad. F2012L02248, Schedule 1, item [34]

<b>Provision affected</b>	<b>How affected</b>
Chapter 8	ad. F2011L01573, paragraph 4; rep. F2014L00598, Rule 1.5.1(a)
Chapter 9	ad. F2011L01573, paragraph 4; rep. F2014L00598, Rule 1.5.1(a)
Chapter 10	ad. F2011L01573, paragraph 4
Schedule 1A and Annexures	ad. F2011L01573, paragraph 4; rep. F2014L00598, Rule 1.5.1(b) and (c)
Schedule 1B	ad. F2011L01573, paragraph 4; rep. F2014L00598, Rule 1.5.1(b)
Schedule 1C	ad. F2011L01573, paragraph 4; rep. F2014L00598, Rule 1.5.1(b)