

Attachment 1 to CP 293: Draft regulatory guide



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 172

Financial markets: Domestic and overseas operators

July 2017

About this guide

This guide provides guidance about the licence regime for operators of financial markets.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This draft guide was issued in July 2017 and is based on legislation and regulations as at the date of issue.

This guide replaces:

- Superseded Regulatory Guide 172 *Australian market licences: Australian operators*, issued 6 March 2002 with Addendum 1 added in November 2012
- Superseded Regulatory Guide 177 *Australian market licences: Overseas operators*, issued 30 October 2003

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

The market licence regime applies to a broad range of venues, from traditional exchanges to non-exchange market venues.

We seek to regulate licensed venues to ensure they are operated in a fair, orderly and transparent manner.

What is this regulatory guide about?

RG 172.1 This guide outlines our role in, and approach to, regulation of financial markets as defined under s767A of the *Corporations Act 2001* (Corporations Act). It deals with a range of financial markets (also referred to as market venues in this regulatory guide) operating in Australia including those operated by domestic and overseas operators.

Note: In this guide, references to chapters (Chs), parts (Pts) and sections (s) are to the Corporations Act, unless otherwise specified.

RG 172.2 This guide sets out:

- (a) our approach to, and outcomes of, market regulation;
- (b) when you are taken to operate a financial market;
- (c) our approach to, and guidance on, the obligations of licensees;
- (d) regulation of overseas operators;
- (e) exemptions from the licence regime;
- (f) our supervision of licensees; and
- (g) applying for a licence or exemption.

Types of financial markets

RG 172.3 Financial market venues perform a number of core purposes, whether they are traditional exchanges, or non-exchange specialised or emerging market venues. They facilitate the flow of capital (savings and investment) between:

- (a) those that supply the capital (e.g. retail and institutional investors); and
- (b) those that use that capital (e.g. businesses and government).

RG 172.4 In providing this critical capital allocation function, market venues:

- (a) facilitate access to capital within the economy to fund projects that create jobs and support growth;

- (b) support individuals and institutions to access investments to share in wealth creation; and
- (c) facilitate risk management, including for the real economy (e.g. suppliers and manufacturers of goods and services).

RG 172.5 Spurred on by developments in technology and regulation, market venues globally have continued to evolve over time.

Exchanges

RG 172.6 Exchange trading has occurred in Australia since the 19th century.

RG 172.7 Futures exchange trading began in 1960 on the Sydney Greasy Wool Futures Exchange, which was later renamed the Sydney Futures Exchange. The Australian Securities Exchange (ASX) has been the primary market for company listings and secondary trading in Australia since 1987 when the six independent state-based stock exchanges amalgamated.

RG 172.8 In 1987, automated trading also began in Australia. This led to significant enhancements in market efficiency and paved the way for many subsequent macro- and micro-market structure developments.

RG 172.9 In 1998, the (formerly named) Australian Stock Exchange demutualised and became a listed company on its own market. In 2006, it merged with the Sydney Futures Exchange to create the ASX Group, with the ASX platform offering securities trading and ASX 24 offering futures trading.

RG 172.10 Overseas futures exchanges such as the Chicago Mercantile Exchange, Eurex and ICE Futures Europe have operated in Australia under overseas market licences for a number of years.

RG 172.11 Responsibility for market surveillance shifted from ASX, ASX 24 and a number of other domestic market operators (including the National Stock Exchange of Australia and the Sydney Stock Exchange) to ASIC in August 2010. The Government considered this to be a necessary step in the process of facilitating competition between market operators, which began in October 2011 with the introduction of Chi-X Australia offering trading services in ASX listed securities.

RG 172.12 As part of this process, we have made market integrity rules to set conduct standards for certain domestic markets and their participants.

Non-exchange venues

- RG 172.13 In addition to exchanges, other forms of market venues have been developing more recently.
- RG 172.14 Market venues were first developed for financial products predominantly used by institutional participants, such as non-exchange traded derivatives and debt.
- RG 172.15 These market venues are not homogeneous in terms of structure, operation, participants or products. Technology and user demand have led to changes in the venues' business models over time, including the trading methods used and types of membership or access arrangements for dealers and clients. As those market venues matured, many offered improved pre- and post-trade risk management services (notably straight-through processing), and more structured rules and systems.
- RG 172.16 As a result, some market venues have become increasingly comparable to, and in some important areas indistinguishable from, traditional exchanges. This has resulted in a blurring of the division between traditional exchanges and non-exchange venues.
- RG 172.17 In response, a number of overseas jurisdictions have amended or introduced regulatory regimes designed to accommodate these different forms of venues. Some of these overseas venues (including US swap execution facilities and European multilateral trading facilities) have operated in Australia for a number of years alongside domestic market venues. A number of these venues were granted conditional exemptions before the amendments made under the *Corporations Amendment (Crowd-sourced Funding) Act 2017*.
- RG 172.18 As part of these developments, technology also helped to bring change to how users can interact with market venues and the types of products that may be accessed by a range of investors.

Who regulates financial markets?

- RG 172.19 Under the Corporations Act, the Minister has a decision-making role in aspects of regulating financial markets operating in Australia.
- RG 172.20 More broadly, we have a central frontline role in the day-to-day administration of financial market regulation in Australia.
- RG 172.21 Our main functions in the regulation of market operators are to:
- (a) advise the Minister about applications for a market licence, changes to operating rules, other matters in respect of which the Minister has a discretion under Pt 7.2, and other matters concerning financial markets;

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- (b) assess, enforce and report on licensees' compliance with their obligations; and
- (c) enforce the prohibition on a person operating, or holding out that the person operates, a financial market in Australia, if the person does not hold a licence or an exemption.

RG 172.22 For domestic markets, we also have frontline responsibility for supervising secondary trading activity taking place on those markets, as well as making and ensuring compliance with the ASIC market integrity rules, which cover fundamental issues to do with conduct and the participant-client relationship.

Outcomes of market operator regulation

RG 172.23 We seek to administer the licence regime in a substantially consistent manner for operators in similar circumstances, and to maintain a technology-neutral approach. We will seek to administer the regime so as to meet our regulatory objectives and address regulatory risks.

RG 172.24 The regulatory objectives for market operator regulation are predominantly to facilitate capital formation or efficient risk allocation, and support the interests of fundamental investors such as Australian companies. Doing so helps to maintain the integrity, quality and international reputation of the Australian financial system.

RG 172.25 We believe that market operators have an important role to play in meeting these outcomes. As such we expect the regulation of market operators to achieve the following outcomes, which relate to the fair, orderly and transparent operation of the market:

- (a) *Price formation:* Price formation on the market reflects genuine supply and demand. Sufficient information is available to inform users about the consequences of trading decisions, including an indication of whether and at what price/volume trading may occur on the market.
- (b) *Orderly functioning of the market:* The market is able to operate as intended with controls for undue aberrations or extreme volatility.
- (c) *Fair access:* Access to facilities and services is provided in a fair, transparent and non-discriminatory manner, including as to commercial terms. This includes access to order types, products and data. Access is provided to users and, where appropriate, other stakeholders.
- (d) *Users are informed and receive fair treatment:* Sufficient information is available to enable informed use of the market, including about how the market operates. The interests of different users are appropriately balanced, with like treatment for like circumstances and no market users unduly favoured over others.

- (e) *Admission*: Operators should have rules and practices to ensure admission of participants and products are designed to achieve high-quality outcomes – and apply appropriate ongoing expectations and transparency about when removal or suspension may occur.

Note: See Appendix 1 for more detail on our expectations for markets that have a listing function.

- (f) *Market integrity*: Operators have capacity and arrangements to administer and oversee the market, to support market integrity outcomes.

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B Do you need a market licence?

Key points

You will need a market licence if you operate a financial market in this jurisdiction. The definition of 'financial market' is broad.

We also provide practical guidance on when we are more likely to have a regulatory interest in a particular venue under the market licence regime.

When do you need a licence?

- RG 172.26 The Corporations Act prohibits a person from operating, or holding out that the person operates, a financial market in Australia, unless:
- (a) the person has an Australian market licence that authorises the person to operate the market; or
 - (b) the Minister has exempted the person from the licensing requirement (s791A): see Section F.

Note: Since April 2016, certain ministerial powers relating to licensing, operating rules and compensation arrangements have been delegated to ASIC to streamline the processes.

Is your operation a financial market?

- RG 172.27 A financial market is defined in s767A in broad and flexible terms to include a wide range of market venues. It is a facility through which:
- (a) offers to acquire or dispose of financial products are regularly made or accepted; or
 - (b) offers or invitations are regularly made to acquire or dispose of financial products that are intended to result or may reasonably be expected to result, directly or indirectly, in:
 - (i) the making of offers to acquire or dispose of financial products; or
 - (ii) the acceptance of such offers.

See s767A(1).

- RG 172.28 This section outlines our approach to this definition, including in the context of market innovations and developments described in Section A. It also outlines our approach to who is a participant on a financial market.

What is a financial market?

- RG 172.29 The definition in s767A(1) is broad and applies to any form of technology or physical infrastructure that would enable persons to make *or* accept offers or invitations by means of the facility.
- RG 172.30 The essential feature of both an offer and an invitation is that the offer or invitation is *intended to result*, or may reasonably be *expected to result*, in a binding contract. This includes:
- (a) formal contractual offers;
 - (b) requests for others to make a formal contractual offer; and
 - (c) requests to enter a course of negotiations with a view to entering into a binding contract.

Practical application

- RG 172.31 We are more likely to have a strong regulatory interest in a market venue if it has one or more features that enable some or all of the terms of the agreement to occur by means of the facility.
- RG 172.32 This is the case even where steps may also occur away from the facility to finalise, amend or confirm the agreement's terms. For example, if a facility enables a person to receive and respond to a request for quote, we are more likely to have a regulatory interest, even if elements of the process for finalising and documenting a trade (such as confirmation of the terms of the contract, checking credit limits, amending agreed terms or adding to them) is done elsewhere.

Note: It also does not include any post-trade processes that may be required, such as meeting obligations under the agreement. A person who operates a facility for this purpose may be operating a clearing and settlement facility (see the definition in s768A and [Regulatory Guide 211](#) *Clearing and settlement facilities: Australian and overseas operators* (RG 211)).

Elements of the s767A(1) definition

- RG 172.33 As explained above, offers and invitations can range from formal contractual offers to requests to enter a course of negotiations. This means the offers and invitations that may be made through a facility can differ in the information contained and in form, and the facility would still be a financial market as long as it meets the elements of the definition.
- RG 172.34 For example, an initial request to enter a course of negotiations may indicate one or more of the product, person, price or indicative price, volume or other component of a potential contract, while a binding contractual offer may be expected to identify the key elements of the contract.
- RG 172.35 A facility can be an integrated infrastructure made up of multiple components. Such integrated infrastructure may be a financial market even if

any or all of its components, when considered in isolation, do not of themselves constitute a financial market.

- RG 172.36 A number of component parts may constitute a single facility where, for example:
- (a) the component parts are owned or controlled by the same entity or are part of the same corporate group; or
 - (b) together the component parts enable the making and/or acceptance of offers or invitations and no component part is a regulated market.
- RG 172.37 The essential feature of both an offer and an invitation is that the offer or invitation is *intended to result*, or may reasonably be *expected to result*, in a binding contract. Therefore the term is broad and includes:
- (a) formal contractual offers;
 - (b) requests for others to make a formal contractual offer; and
 - (c) requests to enter a course of negotiations with a view to entering into a binding contract.
- RG 172.38 Section 767A refers to offers or acceptances being ‘regularly’ made or accepted. The term ‘regularly’ means the facility can provide recurring opportunities to acquire or dispose of financial products through the facility. ‘Regularly’ does *not* mean continuously or at specified intervals—that is, there is no temporal requirement.
- RG 172.39 This means the requirement of regularity may be satisfied even if there are small numbers of infrequent offers or invitations made or accepted through the facility because, for example:
- (a) the facility only operates for a short period of time;
 - (b) there is limited commercial activity taking place through the facility; or
 - (c) the facility operates in respect of less liquid financial products.

What is not considered to be a financial market?

- RG 172.40 Section 767A(2)(a) stipulates that persons engaged in the designated conduct do not operate a financial market and therefore are not required to hold a licence. Designated conduct is:
- (a) subject to the regulations, a person making or accepting offers or invitations to acquire or dispose of financial products on the person’s own behalf or on behalf of one party to the transaction only;
 - (b) conducting Treasury operations between related corporate bodies;
 - (c) conducting an auction of forfeited shares by a licensed auctioneer; and
 - (d) any other conduct of a kind prescribed by regulations.

RG 172.41 Section 767A(2)(a) describes the type of conduct ordinarily engaged in by a participant, such as a market maker or broker, on a market venue (that is, making an offer to buy or sell a financial product on a person's own behalf or on behalf of another person). A person undertaking the specified activity would not be required to hold a market licence, and may be required to hold an Australian financial services (AFS) licence or be exempt from AFS licensing.

Note: Section 766D specifically provides that a person makes a market in a financial product where, if the person's actions occurred on a facility or in a place, it would not constitute operating a financial market because of the effect of s767A(2)(a). That is, the actions defined under s766D(1)(a) and (b) would be treated as market making, not as operating a market venue, because of s767A(2)(a).

The informal OTC market

RG 172.42 The explanatory memorandum to the *Financial Services Reform Act 2001* also refers to 'transactions which are considered to form part of the informal "OTC market"'. This term 'informal "OTC market"' should be understood in light of the range of market venues that have developed since 2001. As these market venues have evolved, some transactions that were previously directly negotiated between participants have moved onto market venues.

RG 172.43 Many of these market venues exhibit the core features specified in s767A(1) of markets that require a market licence or an exemption. That is, the Australian market licence regime already applies to these market venues.

Who is a 'participant'?

RG 172.44 A 'participant' of a market venue is defined in s761A as 'a person who is allowed to directly participate in the venue under the market's operating rules'. We consider that a person 'directly participates' in a venue if:

- (a) the person's access to the market venue's trading mechanism, for the purpose of making offers or invitations through the venue, is not intermediated; or
- (b) the person has, or is taken to have, direct legal responsibility for an offer or invitation that has been made through the market venue (including for some or all of the obligations that arise immediately if a market contract is formed).

RG 172.45 Our interpretation of 'participant' excludes a person who is able to transmit an offer or an invitation to a venue's trading platform by means of an automated ('straight through') electronic order processing facility, in circumstances where:

- (a) the venue's trading platform identifies the offer or invitation as having been transmitted from another person ('participant'); and

- (b) the venue's operating rules make the participant (or another participant) legally responsible for the transmission.

RG 172.46 In this situation, we consider that the person's access to the market venue is intermediated and the person does not 'directly participate' in the venue. This is the case whether the operator or some other person makes the automated electronic order processing facility available.

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C What type of licence?

Key points

This section provides guidance on:

- whether you should apply for a domestic or overseas market licence;
- which tier of licence would apply to your market and how we will determine the tiers; and
- when your market may be operating in this jurisdiction.

Domestic or overseas licence?

RG 172.47 If you operate a financial market in Australia, you must hold a domestic licence under s795B(1) unless you are eligible to hold an overseas market licence under s795B(2).

Overseas market licence

RG 172.48 If your principal place of business is located in a foreign country, you may be eligible to apply for an overseas market licence under s795B(2). You will only be eligible to apply for an overseas market licence under s795B(2) if you are authorised in your home country to operate the same financial market that you propose to operate in Australia.

RG 172.49 The regulatory regime that applies in your home country must be sufficiently equivalent to the Australian regulatory regime: s795B(2)(c). For details see Section E.

RG 172.50 If you are granted an overseas market licence, you will not be required to comply with certain licence obligations but you will be required to meet a small number of obligations specific to overseas licences. These are explained further at RG 172.179–RG 172.182 and Table 1.

Tier 1 or tier 2 licence?

RG 172.51 Market venues differ in their nature, size and complexity. This reflects the nature of products and participants that the venue serves, and the venue's business model. Some market venues may therefore pose greater risks than others or pose specific risks to the financial system and to investor confidence and trust in the system.

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RG 172.52 To facilitate these differences, the Corporations Act allows licensees to be exempt from certain obligations in Pt 7.2 or to be subject to the full suite of obligations.

RG 172.53 We administer the licence regime so as to create two broad tiers of licences. We designate licences as tier 1 licences (that are generally expected to comply with all licensing obligations) or tier 2 licences (that would be expected to comply with a smaller number of licensing obligations). Both domestic and overseas market operators could be designated as a tier 1 or tier 2 licensee for the market venues they operate.

Risk assessment

RG 172.54 The decision to designate a market venue as a tier 1 or tier 2 venue will be based on a risk assessment:

- (a) tier 1 market venues are, or are expected to become, significant to the Australian economy or the efficiency and integrity of, and investor confidence in, the financial system. This tier is expected to include the traditional exchanges as well as a small number of other market venues that meet the ‘significance’ criteria;
- (b) tier 2 applies to most other licensed market venues. We would not generally permit tier 2 market venues to use ‘exchange’ or ‘stock/securities/futures market’ in their title or in documentation such as marketing material.

Note: This is in addition to restrictions on the use of the term ‘stock exchange’. See item 6319, Sch 6 of the Corporations Regulations 2001 (Corporations Regulations).

RG 172.55 The types of regulatory risks that we consider in determining which tier should apply to a market venue include:

- (a) whether the failure of the market venue could result in severe *disruption to the financial system* or part of the financial system (e.g. where the market is part of an interconnected group with other financial market infrastructure services);
- (b) whether there is the potential for contagion risk as a result of *competition in trading* between market venues for the same financial products (e.g. price movements are quickly reflected on other markets) and activities may directly and negatively affect other markets (e.g. cross-market manipulation);
- (c) whether the failure of the primary *price formation function* of the market venue (e.g. information about the pricing of the financial products traded on the facility would be impaired) could have detrimental implications for financial products and contracts that are important to the financial system; and

- (d) whether the nature of the market venue raises risks to the efficiency and integrity of, and *investor confidence* in, the financial system (e.g. intermediated listing markets with retail investor participation).

RG 172.56 For overseas operators, we will undertake the ‘sufficient equivalence’ assessment against the obligations that would apply to a tier 1 or tier 2 market venue, as determined under this approach. If you are regulated as an exchange in your home jurisdiction, you should expect to be assessed as a tier 1 market venue.

RG 172.57 When we advise the Minister on a licence application or variation, we will consider whether the applicant would be operating a tier 1 or tier 2 market venue, and therefore which obligations should apply to the applicant for that venue.

RG 172.58 We will also take these factors into account when considering whether a market venue should move from a tier 2 to a tier 1 licence, or vice versa. This may occur, for example, when the nature, size and complexity of a market venue, or the risks posed by the market venue, change compared to the case at the time of the licence application. We would consult the operator about the time needed for the operator and participants to undertake any regulatory compliance changes.

Is your market venue operating ‘in this jurisdiction’?

RG 172.59 A market venue operates in Australia if it meets one or more of the following descriptions:

- (a) the market venue is operated by a body corporate that is registered under Ch 2A;
- (b) the market venue is located in Australia, which means all or a significant part of the market infrastructure is located in Australia; or
- (c) the market venue:
 - (i) has one or more participants in Australia (see the definition of ‘participant’ in RG 172.44–RG 172.46); or
 - (ii) is targeted at Australian investors.

When is a market venue targeted at Australian investors?

RG 172.60 Determining if a market venue targets Australian investors requires assessing all the facts and circumstances about the venue. The following factors may indicate that a market venue is targeting Australian investors:

- (a) one or more participants in Australia have direct secure access to the market venue platform through a market screen;

- (b) the operator, or a person acting with the endorsement of the operator, promotes the market venue in Australia by, for example:
 - (i) advertising the market venue in Australia; or
 - (ii) sending direct mail publicity about the market venue to Australian addresses; or
 - (iii) sending email publicity about the market venue to Australian addresses;
- (c) the prices on the market venue are denominated in Australian dollars; or
- (d) the market venue is regularly used by Australian investors.

Targeting Australian investors

- RG 172.61 If you want to establish that your market venue does not target Australian investors, you will need to supply clear evidence to support your claim. It is not enough to just indicate you are not targeting Australian investors, for example, in a disclaimer.
- RG 172.62 A market venue may not be targeting Australian investors when an Australian participant accesses the market venue and they are presented with information that clearly and prominently:
- (a) states that the market venue is targeted at residents of some other jurisdiction; or
 - (b) lists the jurisdictions (other than Australia) in which the market venue is authorised to operate, and that information is true.
- RG 172.63 In addition, a market venue might not be targeting Australian investors when the operator takes precautions designed to prevent the use of the market by Australian investors, including the screening of invitations, offers and acceptances from Australian addresses.

Note: Our policy on these circumstances is consistent with our approach in [Regulatory Guide 141](#) *Offers of securities on the internet* (RG 141) and the approach of other regulators and international organisations to regulatory authority over activities on the internet.

D Market licensee obligations

Key points

This section sets out which licence obligations imposed under the Corporations Act would typically be expected to apply to each tier of licence.

We also provide additional explanations about how licensees may be expected to comply with some licence obligations.

Application of licence obligations to tiers of market venues

- RG 172.64 A tiered licence regime allows licence obligations to be applied in a way that takes into account the nature of the market venue and products traded on the venue. This approach allows ASIC to:
- (a) retain the key obligations in Pt 7.2 for all licensees (for example, the obligation to maintain a fair, orderly and transparent market, undertake appropriate supervision of the market, and provide reasonable assistance to ASIC);
 - (b) exempt tier 2 venues from obligations that are not appropriate or unnecessary; and
 - (c) adapt additional obligations to the nature, size and complexity of venues. This could be done via specific exemptions, licence conditions or both.
- RG 172.65 Table 1 sets out the obligations that we generally expect would apply to each tier of licence. This means tier 1 market venues would be subject to obligations that generally apply to exchanges and highly regulated multilateral trading venues in other jurisdictions.
- RG 172.66 We would consider adapting licensing obligations for specific market venues or a class of venues, for example to facilitate emerging or specialised venues. We may also consider imposing additional obligations if a market venue exhibits additional regulatory risks (such as risks to investor trust and confidence). Some obligations are further explained at RG 172.67–RG 172.155.

Table 1: Licence obligations

Licence obligations	Tier 1	Tier 2
Obligations applying to domestic and overseas operators		
Operate the market venue in a fair, orderly and transparent manner (s792A(a))	Yes	Yes
Comply with the conditions on the licence (s792A(a))	Yes	Yes
Adequate arrangements for handling conflicts, monitor and enforce compliance with operating rules (s792A(c))	Yes	Yes, as appropriate to the market's nature, scale and complexity
Have sufficient resources to operate the market properly (s792A(d))	Yes	Yes, as appropriate
Ensure no disqualified individual is involved in the licensee (s792A(i))	Yes	Yes
Follow directions from Minister or ASIC; assist ASIC including by providing documents and access to market facilities (s794A, s794C, s792D, s792E)	Yes	Yes
For a 'widely held market body', no unacceptable control situation (Pt 7.4)	Yes	No
Obligation to notify ASIC as soon as practicable (domestic and overseas operators)		
All licensees	Yes	Yes
<ul style="list-style-type: none"> • licensee breaches an obligation under s792A (s792B(1)) • licensee suspects significant contravention of operating rules or Corporations Act (s792B(2)(c)) • changes to operating rules (s793D) 		
Tier 1 licensees only	Yes	No. Periodic notification may be required
<ul style="list-style-type: none"> • licensee provides a new class of financial service (s792B(2)(a)) • licensee takes disciplinary action against participant (s792B(2)(b)) • licensee becomes aware that participant may not be meeting AFS licence obligations (s792B(3)) • person becomes/ceases to occupy a key role at licensee (s792B(5)(a)) • person has, or ceases to have, 15% of voting power at licensee (s792B(5)(b)) 		
Operating rules and operating procedures		
Obligation to have operating rules: domestic and overseas operators (s793A)	Yes	Yes, as applicable

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Licence obligations	Tier 1	Tier 2
Content of operating rules: all domestic licensees (reg 7.2.07) <ul style="list-style-type: none"> • arrangements for access to the market • how orders are executed • the products available on the market • obligations on participants and listed entities relating to conflicts • participant conduct obligations • how disorderly trading is dealt with • action for participant breaches of operating rules • if market venue has listing function, obligations relating to listing, admission and delisting, and conduct of listed entities 	Yes	Yes, as appropriate
Content of operating rules: tier 1 domestic licensees only (reg 7.2.07) <ul style="list-style-type: none"> • how licensee monitors participant compliance • terms of contract formed between participants • participant dispute resolution • how licensee investigates participant disputes 	Yes	No
Content of operating procedures: tier 1 domestic licensees only (reg 7.2.08) <ul style="list-style-type: none"> • exchange of information with clearing and settlement facilities and other operators • integrity and security of systems • how to monitor compliance with operating rules • assess, investigate, settle participant disputes • recording and effective disclosure of transactions • information about market processes 	Yes	No
Licence obligations applying only to domestic operators		
Comply with market integrity rules (s798H)	Yes	Yes, if applicable
Minister may disallow changes to operating rules (s793E)	Yes	No
Have approved compensation arrangements (s792A(e))	Yes	Yes, if market provides intermediated retail access
Licence obligations applying only to overseas operators		
Obligations relating to home jurisdiction (s792A(g), s792B(4)) <ul style="list-style-type: none"> • remain authorised in home jurisdiction • notify ASIC if no longer authorised in home jurisdiction • notify ASIC of significant changes to home regime 	Yes	Yes
Notify ASIC of changes to operating rules (s793D)	Yes	Yes, as applicable
Comply with ASIC determinations on procedures (s793A(4))	Yes	No

Note: In this guide, references to regulations (regs) are to the Corporations Regulations, unless otherwise specified.

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Explanation of licence obligations

Nature, scale and complexity of market venue

RG 172.67 Licensees are expected to consider how to comply with their licence obligations in the context of the nature, scale and complexity of the market venue. We will also take into account these factors when supervising the operator.

RG 172.68 'Nature, size and complexity' includes factors such as:

- (a) the products and services you offer;
- (b) the diversity and structure of your operations (including the geographical spread of your operations and the extent to which you outsource any of your functions);
- (c) the volume and size of transactions you are responsible for;
- (d) how many of the clients which access your market are retail, and how many are wholesale;
- (e) the number of people in your organisation; and
- (f) the flow-on effects from any failure of the market which you are operating.

Fair, orderly and transparent

RG 172.69 Under s792A(a), a licensee must do all things necessary to ensure that the market venue is fair, orderly and transparent, to the extent that it is reasonably practicable to do so. This obligation applies both as:

- (a) a broad description of all the licensee obligations; and
- (b) a separate obligation that the licensee must comply with.

RG 172.70 Because this obligation underlies all the other licensee obligations, a licensee that is not meeting one of its other licensee obligations is also likely not to be meeting this obligation. A licensee that meets this obligation is more likely to operate a venue that achieves the regulatory outcomes in RG 172.25.

RG 172.71 'Fair, orderly and transparent' should be treated as a composite phrase. If there is a conflict between the elements of the phrase, we expect a licensee to achieve an appropriate balance between the demands of each element.

RG 172.72 The obligation 'to do all things necessary' is qualified by the phrase 'to the extent it is reasonably practicable to do so'. In other words, a licensee must do everything reasonably practicable to ensure that the market venue is fair, orderly and transparent.

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- RG 172.73 As market venues evolve, for example with increased reliance on third-party services or the use of different trading protocols, licensees should assess how these developments may affect their obligation to operate the market venue in a fair, orderly and transparent manner. Licensees should consider the impact on direct users of the venue, other stakeholders and, for tier 1 venues in particular, the wider Australian financial system.
- RG 172.74 All licensees should be transparent about how the market venue is operated. Licensees should also be transparent about the activities conducted on the venue to the extent appropriate. For example, tier 1 venues in particular should provide an appropriate degree of pre- and post-trade transparency about the transactions conducted on the venue. It may also be appropriate for tier 1 venues— especially exchanges— to publish information about the fee incentives they may offer to certain participants to post offers or invitations on the venue.
- RG 172.75 If a licensee is not doing something that we think is necessary for the market venue to be fair, orderly and transparent, we will only assess it as complying with this obligation where the licensee can satisfy ASIC that it is not reasonably practicable for it to do that thing. Cost by itself will not make it ‘not reasonably practicable’ to do a particular thing, unless the cost to the licensee is manifestly excessive or unreasonable when compared to the market integrity, investor protection or other benefits that would result from doing the thing.
- RG 172.76 Some licensees and/or participants are subject to specific obligations that also help to promote fairness, orderliness and transparency, such as volatility controls and pre- and post-trade transparency obligations in market integrity rules. These specific obligations are only a subset of a licensee’s overall obligation to operate a fair, orderly and transparent market venue, and do not absolve a licensee from compliance with this overall obligation.

Sufficient resources: Financial

- RG 172.77 Section 792A(d) requires licensees to have sufficient financial resources to operate the market venue properly. This requirement helps ensure that:
- (a) the licensee has sufficient financial resources to operate the market venue in compliance with the Corporations Act;
 - (b) there is a financial buffer that decreases the risk of a disorderly or non-compliant wind-up if the business fails; and
 - (c) there are incentives for the licensee and its owners to comply through risk of financial loss.
- RG 172.78 A licensee’s assessment of adequate financial resources must be based on a reasonable estimate of its revenue, expenses and liabilities. For newly established market venues, it may not be appropriate to include any revenue

in the assessment of its financial resources. For longer-established market venues, the venue's history of operation can be taken into account in determining the projected revenue, expenses and liabilities.

- RG 172.79 A licensee must generally assess what financial resources will be sufficient to fund all its activities, not just the operation of a particular market venue. This is because the stability and continuity of a particular venue should not be in conflict with the overall commercial operations of the licensee.
- RG 172.80 What would be considered 'sufficient' financial resources will depend on the nature, size and complexity of a business. Generally, licensees should hold sufficient financial resources to enable the operator to cover the operating costs of the market venue for at least six months. We would expect an operator to hold a higher level of financial resources than six months of operating expenses if that is necessary to facilitate an orderly wind-down of the venue.
- RG 172.81 To determine the level of financial resources that would constitute six months of operating expenses, a licensee should consider the costs that would be incurred under service agreements or outsourcing agreements (including agreements with related entities) relevant to the operation of the market venue. Particularly for tier 1 market venues, we expect the licensee's determination of the level of financial resources to include the operating expenses of a related entity whose function is to provide outsourced services to the venue.
- RG 172.82 We may require a licensee to comply with more stringent financial resources requirements, such as determining the level of financial resources needed using a specified method. We may do so after considering factors such as:
- (a) the extent of retail participation in the venue;
 - (b) the operator's role in overseeing primary issuance on the venue;
 - (c) the importance of the venue to the financial system.
- RG 172.83 We may also stipulate financial resources requirements if the venue exhibits specific risks, for example:
- (a) if a tier 1 venue relies on guarantees or other forms of non-cash financial support from offshore entities;
 - (b) if a licensee has significant other businesses that may pose a risk to the adequacy of the financial resources available to operate the venue; or
 - (c) for tier 1 venues in particular, if we identify intra-group dependencies or links with other market infrastructure within a corporate group that create additional regulatory risks.

Sufficient resources: Technological

- RG 172.84 *[Please refer to Appendix 2. Appendix 2 will be incorporated into this section of the regulatory guide when the final updated regulatory guide is published.]*

Sufficient resources: Human

- RG 172.85 Section 792A requires licensees to have sufficient human resources to operate the market venue properly. What is ‘sufficient’ will depend on the nature, size and complexity of the venue. As market venues and operators’ businesses may change over time, a licensee should keep under review whether it still has sufficient human resources including the right balance of skill sets.

- RG 172.86 We consider having sufficient human resources means:

- (a) having enough staff for the size of the business;
- (b) having staff (including directors, secretaries and senior management) with the right skills, knowledge, competence, expertise and integrity to ensure the licensee can operate the venue properly and comply with its obligations;

Note: Also see ‘Suitability of people with influence and senior managers’ at RG 172.88–RG 172.93.

- (c) when outsourcing any senior management or executive function, taking due diligence and care to ensure the licensee would have the requisite skills, knowledge and competence;
- (d) being able to monitor and supervise the venue appropriately; and
- (e) being able to meet current and anticipated future operational needs.

- RG 172.87 Ensuring and demonstrating that you are meeting the obligation to have adequate human resources, including the right balance of skill sets, will entail maintaining and recording:

- (a) recruitment processes and succession planning;
- (b) identifying and managing any potential conflicts of interest;
- (c) systems for inducting and training new staff;
- (d) performance management systems; and
- (e) processes for staff retrenchment and redundancy.

Suitability of people with influence and senior managers

- RG 172.88 For tier 1 market venues, we have high expectations of people performing key functions that set, influence and oversee the strategic direction of the licensee. We would have comparable expectations of tier 2 licensees to the extent appropriate for the nature, scale and complexity of the market venue.

RG 172.89 We expect licensees to undertake comprehensive checks and assess the suitability of potential senior managers and other people of influence before appointing them. People who are able to exert significant influence over the management of the licensee, whether directly or indirectly, should also be assessed for suitability (e.g. directors or senior managers of the holding company).

RG 172.90 We expect directors, secretaries and senior managers of a licensee, or a holding company of a licensee, to be of good repute and sufficiently experienced to ensure the sound and prudent management of the market venue. We expect the licensee to review these assessments regularly, including when the person changes from one of those positions to the other.

Note: See the definition of ‘director’ and ‘senior manager’ in s9. Section 201A requires a minimum number of directors to reside in Australia.

RG 172.91 Factors to be considered in determining if a senior manager or another person with significant influence is suitable for their role at the time of appointment and on an ongoing basis include, but are not limited to:

- (a) the person’s fame, character and integrity. This includes the attributes of diligence, honesty and judgement and ensuring that the person is not fined, suspended, disqualified, convicted of an offence under s206B(1) or subject to any other sanction by Government or a regulatory or professional body (s853C(3));
- (b) the person’s educational qualifications and financial market experience (this includes appropriate knowledge and skills to demonstrate professional competence as well as the person’s understanding of and compliance with Australian law and the rules of the market venue). A senior manager with responsibility for a specific area should have appropriate knowledge and experience in the area they have responsibility for;
- (c) the person’s financial soundness, including whether they have been:
 - (i) unable to fulfil any financial obligations;
 - (ii) subject to bankruptcy; or
 - (iii) involved with a failed business;
- (d) the person’s arrangements to manage or avoid any conflict of interest that would affect their ability to properly perform their role; and
- (e) the person’s availability and commitment to performing their role, taking into account any other roles or expectations on the person’s time.

RG 172.92 In considering whether a senior manager or person of influence is suitable, the licensee should take into account all circumstances, including the person’s conduct and involvement in events that may have taken place overseas and the person’s connection with any person who may not be considered suitable.

RG 172.93 Where the operator or the venue is a relatively new business and we consider that it is relying too heavily on a particular person for expertise or knowledge, we may consider implementing a condition which requires it to inform ASIC when that individual resigns and take mitigating actions such as finding a replacement.

Notifications to ASIC

RG 172.94 Part 7.2 requires a licensee to notify ASIC of certain matters. Tier 2 licensees would generally be exempt from some of these obligations in recognition of the fact that for tier 2 market venues we may address some of the risks covered by these obligations in other ways.

RG 172.95 Tier 2 licensees would generally be required to notify ASIC of:

- (a) breaches or likely breaches of an obligation under s792A;
- (b) suspected significant contraventions of operating rules or the Corporations Act; and
- (c) new or changed operating rules (also see RG 172.126–RG 172.133 on operating rules).

Note: This notification requirement is different from operating rules disallowance.

RG 172.96 In addition to the matters listed above, the Corporations Act requires tier 1 licensees to notify ASIC if:

- (a) they provide a new class of financial service;
- (b) they take any kind of disciplinary action against a participant;
- (c) they become aware that a participant may not be meeting its AFS licence obligations;
- (d) a person becomes or ceases to occupy a key role (i.e. director, secretary, senior manager, executive officer) with the licensee or a holding company of the licensee (see also RG 172.88–RG 172.93); and
- (e) a person has or ceases to have 15% of voting power of the licensee or the holding company of the licensee.

RG 172.97 The notifications referred to in RG 172.96(d) and RG 172.99(e) about key roles and voting power apply up a chain of corporate ownership: see s46. Irrespective of the title given to the person by the licensee, the notification obligations apply to senior managers or executive officers who are involved in decisions that affect the whole, or a substantial part, of the licensee or have the capacity to significantly affect the licensee's financial standing: see s9.

RG 172.98 While we would generally expect to exempt tier 2 licensees from the notification obligations in RG 172.96, these matters should be addressed in the licensee's annual regulatory report if they affect the licensee's compliance with their licence obligations: see RG 172.204–RG 172.207.

Arrangements for operating the market

RG 172.99 In assessing how well a licensee is complying with its obligation in s792A(c) to have adequate arrangements for operating the market venue, we will consider how the licensee:

- (a) handles conflicts of interest (see RG 172.100–RG 172.105);
- (b) monitors and enforces compliance with its operating rules. As applicable to the market venue, this would include reviewing processes concerning:
 - (i) admission of prospective issuers, listees and participants;
 - (ii) monitoring trading and other market activity and disclosure by product issuers or listed entities to detect potential or actual non-compliance with the market venue’s operating rules;
 - (iii) contractual arrangements entered into with participants to provide market-making services for certain products; and
 - (iv) dealing with actual or suspected breaches of the market venue’s operating rules, including remedial, disciplinary and other deterrent measures;
- (c) handles complaints about the market venue or services offered by the licensee (including data services), issuers, listees or participants;
- (d) subject to the applicable supervisory arrangement, shares supervisory responsibilities and information with:
 - (i) ASIC; and
 - (ii) operators of other exchanges and clearing and settlement facilities that have the same participants as the exchange; and
- (e) makes available and uses resources for conducting compliance monitoring arrangements.

Handling conflicts of interest

RG 172.100 In assessing a licensee’s arrangements for handling conflicts of interest, we will consider whether:

- (a) the arrangements comply with any regulations made under s798E;
- (b) under the arrangements, actual or potential conflicts of interest are reliably identified and appropriately responded to; and
- (c) conflicts of interest are identified and managed, for example between its commercial activities and its compliance activities.

When may conflicts of interest arise?

RG 172.101 In order to identify and appropriately respond to actual or potential conflicts of interest, a licensee will need to anticipate when such conflicts may arise.

- RG 172.102 Conflicts between the commercial interests of the licensee and the need to ensure the market is fair, orderly and transparent may arise in any area where a licensee makes supervisory decisions. They may involve, for example, the licensee's competitors (actual or potential), joint venturers, associates, or entities in which the licensee has a significant shareholding. Conflict situations may also involve the licensee's securities, or other financial products derived from these securities, that are traded on a market venue operated by the licensee.
- RG 172.103 Conflicts of interest may arise in connection with decisions about:
- (a) admission to the market venue as a participant, listed entity or issuer;
 - (b) participation in clearing and settlement facilities operated by the licensee or a related entity;
 - (c) monitoring of a listed entity, issuer or market participant;
 - (d) investigative or disciplinary action; or
 - (e) the exercise of discretions, such as granting waivers from the market venue's operating rules or charging variable fees.
- RG 172.104 We have observed challenges for licensees in managing conflicts of interest, particularly concerning people of influence: see RG 172.88–RG 172.93.
- RG 172.105 The appropriate organisational and reporting structures will vary depending on the nature, size and complexity of market venues and the operator. It is the responsibility of the licensee to have organisational structures and arrangements designed to ensure the market venue is operated in a fair, orderly and transparent manner that is not undermined by conflicts, such as conflicts between compliance and supervision, and commercial functions.

Monitoring and enforcing compliance with the operating rules

- RG 172.106 While we are the whole-of-market supervisor (including enforcement) for secondary market misconduct on Australian domestic markets, each licensee is responsible for proper operation of their own market. This includes setting the operating rules that govern the core operational functioning of the market venue and the admission standards for issuers, listees and participants, as applicable.
- RG 172.107 Under s792A(c)(ii), a licensee must have adequate arrangements for monitoring and enforcing compliance with the operating rules of the market venue.
- RG 172.108 The type of arrangements a market venue will require will depend on the nature of the venue, the financial products traded on the venue and the participant conduct being monitored. In all situations, we will consider whether the arrangements would enable the licensee to meet its obligations.

RG 172.109 In general, the rules should outline the obligations of participants using the venue, and how the venue will operate. In addition, for venues that facilitate listings (currently only tier 1 venues), the operating rules should outline the requirements that need to be met in order to be admitted to the venue, as well as ongoing obligations applicable after admission.

Monitoring of issuers and listees

RG 172.110 For market venues with a listing function, we expect a licensee's arrangements to be designed to achieve high-quality and robust listing and admission outcomes. It is the responsibility of the licensee to ensure it has appropriate systems and arrangements to achieve this outcome. Examples of systems and arrangements designed to achieve high-quality and robust listing outcomes may include:

- (a) processes requiring that admission applications are carefully and rigorously reviewed and verified to ensure that listing applicants meet admission requirements. For example, in the case of a listee, we would expect a licensee to closely scrutinise an applicant's shareholder register to ensure that the spread requirement is adhered to and has not been obtained through artificial means;
- (b) arrangements to ensure listed entities meet their continuous disclosure obligations. These are the principal disclosure obligations imposed on listing entities and are central to the integrity and efficiency of any market venue with a listing function. A licensee's processes to monitor and enforce this requirement should include frequent monitoring of media, chat sites and research about listed companies. This should be supplemented by the use of technology to monitor activity on the venue to identify abnormal trading activity. Where these circumstances are identified, and are not explained by movement in the venue or sector, we expect that the circumstances will be investigated and, if a potential breach is identified, referred to ASIC; and
- (c) where there are specific ongoing requirements for issuers and listees under the operating rules, arrangements to monitor compliance with those obligations. For example, where they are required to provide liquidity in a product, the arrangements to deliver that outcome, as well as the liquidity outcome itself, should be monitored closely.

Monitoring participants and core market functioning

RG 172.111 Section 792A(c)(ii) requires a licensee to monitor and enforce compliance with the venue's operating rules, which would include monitoring participants using the market venue.

RG 172.112 The details of monitoring programs may vary, again given the nature, scale and complexity of the market venue operated. For all market venues, we

expect a documented program of review to monitor the level of compliance with operating rules as well as the ASIC market integrity rules.

- RG 172.113 Some features and activities of venues would require specific monitoring arrangements. That is:
- (a) processes requiring that admission applications are carefully and rigorously reviewed and verified to ensure that applicants meet admission requirements;
 - (b) if a market venue uses the services of market makers, monitoring whether market makers are complying with their commitments, including ensuring they have reasonable bids in the market. Market makers have specific commitments designed to ensure that investors and other traders are always able to price and trade products by always being available to buy or sell those products. They play an important role in ensuring trading can take place in less liquid markets or instrument types; and
 - (c) for securities and derivatives exchanges, processes that monitor the day-to-day orderly operation of the market, including ensuring that securities that are the subject of a price-sensitive announcement are appropriately halted and reopened. For other market venues we would also expect the application of appropriate trading system constraints, for instance limiting certain order types (e.g. enter, amend, cancel) during certain market states (e.g. pre-open, open).

Outsourcing

- RG 172.114 We recognise that many licensees outsource functions that relate to their market licence, including administrative or operational functions.
- RG 172.115 If you outsource functions that relate to your market licence, whether to third parties or to group entities, you remain responsible for complying with your obligations as a licensee. The board of a licensee has ultimate responsibility for the outsourcing policies of the entity or the group. This includes groups where multiple market venue operators centralise core operations of their venues (system, technology, compliance) to one or more group entities, and where the operator outsources to a third-party provider.
- RG 172.116 All risks arising from outsourcing material business activities must be appropriately managed to ensure that you are able to meet your obligations. Factors for consideration as part of outsourcing arrangements include business continuity measures, the capacity of the service provider, the security and confidentiality of information, and termination procedures.

Note: Licensees may wish to refer to the International Organization of Securities Commission's (IOSCO) [Principles on outsourcing by markets \(PDF 390 KB\)](#) (July 2009) for further information.

Complying with your obligations

- RG 172.117 All outsourcing arrangements should be subject to appropriate due diligence, approval and ongoing monitoring.
- RG 172.118 If you outsource functions that relate to your licence, we would generally expect that you will:
- (a) maintain a policy relating to outsourcing of activities, which could be part of general risk management policies. This should generally be approved by the board;
 - (b) have measures in place to ensure that due skill and care is taken in choosing suitable service providers;
 - (c) ensure that you can and will monitor the ongoing performance of service providers. This includes ensuring the outsourcing arrangement is covered by a legally binding written contract with the service provider. The contract should provide an adequate level of transparency about how the contractor performs under the contract, for example by requiring the licensee's prior approval of any subcontracting arrangements;
 - (d) appropriately deal with any actions by service providers that breach the contract or service level agreements, or your licence obligations. This would require you to establish, implement and enforce documented policies, procedures, systems and controls relevant to the nature and scope of the outsourcing arrangement to ensure you continue to comply with your obligations;
 - (e) enable transparency and accountability, at all times be able to access books, records and information of the service provider relating to the outsourced services, and ensure we have the same access to such books, records and information that we would have if not for the outsourcing arrangement; and
 - (f) identify any conflicts of interest between the licensee and service providers (whether a related entity or a third party) and ensure that policies and procedures are in place to mitigate and manage them.

Specific outsourcing considerations

- RG 172.119 While the considerations applicable to outsourcing apply regardless of whether the outsourcing is to an external or related party, the risks associated with each differ. For example, you may have easier access to the systems of a related party service provider, which may reduce some risks associated with the outsourcing arrangement. On the other hand, an intra-group arrangement may benefit the interests of the related party service provider over those of the licensee.

- RG 172.120 Where functions are outsourced on a cross-border basis, additional considerations arise. For example, it may be more difficult to monitor and control a foreign service provider and to implement an emergency response in a timely fashion due to differing time zones. It may also be necessary to consider whether there are any economic, social, legal or political conditions that might adversely affect the foreign service provider's ability to perform the services.
- RG 172.121 To ensure appropriate transparency and oversight, where a material business activity is outsourced, the outsourcing considerations should be subject to greater rigour. This will be the case where the outsourcing arrangement has the potential, if disrupted, to have a significant impact on the licensee's business or on the activities of participants on the market venue. Domestic market venues, especially tier 1 licensees, should consult with ASIC before entering into agreements to outsource material activities to overseas service providers.
- RG 172.122 Some service providers may be critical, such as those that have general interdependencies (because several operators and their key participants rely on their services) or where the ability to find an alternative service provider or to perform the function in-house is difficult. In such cases, you should ensure that appropriate contingency arrangements are in place, such as adequate notification periods before an arrangement may be terminated to allow orderly transition. Where the risks created by a licensee's outsourcing arrangement raise specific concerns, we may seek to address those through avenues such as a licence condition.

Record-keeping

- RG 172.123 The retention of records is important in order to demonstrate compliance with several licence obligations, including the obligations to have adequate arrangements for operating a market under s792A(c). Record keeping:
- (a) promotes accountability and transparency;
 - (b) facilitates licensees' supervisory activities; and
 - (c) demonstrates licensees' compliance with regulatory obligations.
- RG 172.124 Therefore, we expect all licensees to keep sufficient records to demonstrate compliance with their licence obligations, including transaction records and key operational decisions.
- RG 172.125 For overseas licensees, we will review the record-keeping obligations in your home regime and consider whether we have access to records relevant to your compliance with your Australian licence.

Operating rules and procedures

Requirement to have operating rules

- RG 172.126 All licensees are required to have operating rules that apply to the market they are authorised to operate, and the operating rules must deal with the matters prescribed by regulations. Regulations may also prescribe the matters that operating procedures must deal with: s793A.
- RG 172.127 Operating rules are defined in s761A as any rules (however described), including the market venue's listing rules (if any), that are made by the operator of the market venue, or contained in the operator's constitution, and that deal with the activities or conduct of the market, or the activities or conduct of persons in relation to the market; but do not include rules dealing with matters that must be contained in procedures or compensation rules as defined in Pt 7.5.
- RG 172.128 We interpret the term 'operating rules' broadly. While many tier 1 market venues will have a stand-alone set of operating rules, some tier 2 market venues may meet this requirement by having business rules, or other business, legal and operational documents that together may meet the requirement for operating rules as provided under the Corporations Act. If this broader approach is taken, we will work with you to identify the relevant documents.

Content of operating rules

- RG 172.129 Regulation 7.2.07 outlines the matters with which the operating rules of a licensed market venue must deal (to the extent that a matter is not dealt with in the market integrity rules). To introduce an appropriate degree of flexibility, we will generally expect to exempt tier 2 operators from the requirement to have certain content in their operating rules. The split of obligations is detailed in Table 1.
- RG 172.130 Tier 2 operators will generally only be required to address in their operating rules the matters that are core to market users understanding how the market operates and what is expected of them. They are:
- (a) arrangements for access to the market, including the criteria for determining whether a person is eligible to be a participant (reg 7.2.07(a));
 - (b) the conduct of participants in relation to the market venue and provision for the expulsion or suspension of, or enforcement action against, a participant for breaches of the operating rules (reg 7.2.07(b)(i) and (iv));
 - (c) how orders are executed (reg 7.2.07(c));
 - (d) how disorderly trading is dealt with (reg 7.2.07(d));

- (e) the class or classes of financial products that are to be dealt with on the licensed market venue (reg 7.2.07(e));
- (f) obligations on participants and listed entities to enable licensees to comply with their obligations relating to conflicts (reg 7.2.07(j)); and
- (g) listing admission and de-listing; and activities/conduct of listed entities, including discipline for breaches (reg 7.2.07(g)).

RG 172.131 In addition to the matters listed above, tier 1 market venues' operating rules must also deal with the following matters:

- (a) how to monitor participant compliance with the operating rules, suspension or enforcement action for breaches of Ch 7 and suspension or enforcement action for failure to meet commitments entered into on the market (reg 7.2.07(b)(ii), (v) and (vii));
- (b) terms of contract formed between participants (reg 7.2.07(f));
- (c) participant dispute resolution (reg 7.2.07(h)); and
- (d) how to facilitate and investigate participant disputes (reg 7.2.07(i)).

Disallowance of operating rules: domestic licensees

RG 172.132 Section 793E requires a domestic licensee to notify ASIC after making changes to its operating rules. The Corporations Act then provides for the Minister to disallow the changes to the licensee's operating rules within 28 days. We propose to retain the legal procedures of notification and disallowance for tier 1 licensees.

RG 172.133 For tier 2 licensees, we will generally grant an exemption from the requirement to notify ASIC under s793E(1). This means the operating rule changes would not become subject to the 28-day disallowance period provided under s793E(2). Instead, we would require the licensee to notify ASIC within a reasonable period before the changes are made. What is reasonable will depend on the complexity of the rule changes.

Obligation to have operating procedures

RG 172.134 In addition to operating rules, reg 7.2.08 specifies the matters on which licensees are required to have operating procedures. The regulation requires procedures to describe how the licensee will undertake certain activities relating to the market venue and its compliance with licence obligations including:

- (a) the exchange of information with the relevant clearing and settlement facility, other market licensees and ASIC (reg 7.2.08(a));
- (b) arrangements to ensure the integrity and security of systems (reg 7.2.08(b));

- (c) arrangements for monitoring compliance by participants and listed entities with the operating rules (reg 7.2.08(c));
- (d) the assessment, investigation and settlement of market-related disputes between participants (reg 7.2.08(d));
- (e) the recording and effective disclosure of transactions (reg 7.2.08(e)); and
- (f) the provision of information about market processes (reg 7.2.08(f)).

RG 172.135 Tier 2 licensees will generally be exempt from the requirement to have operating procedures. Instead, we would require the licensee to provide sufficient information to users about the operation of the venue. This would provide further flexibility for some venues to use alternative mechanisms to keep their participants or users informed of such matters.

RG 172.136 However, this does not absolve the licensee from complying with the substantive requirements set out in the Corporations Act and the licence to ensure there is integrity and security of systems.

Compensation for intermediated retail markets

RG 172.137 Market venues where retail users access the venue through intermediaries (i.e. intermediated retail markets) are required to maintain complying compensation arrangements: s881A.

RG 172.138 The Securities Exchanges Guarantee Corporation (SEGC) was incorporated in 1987 when the six state-based stock exchanges amalgamated. SEGC is the trustee, and administrator, of the National Guarantee Fund (NGF), which operates under Div 4 of Pt 7.5.

RG 172.139 The NGF is a compensation fund which is available to operators of licensed market venues that are members of SEGC (currently ASX is the sole member). It is available to meet certain types of claims arising from dealings with participants/dealers of a member market.

Note: The NGF does not provide coverage for all products traded on a member market. For example, NGF coverage is limited to securities quoted or admitted to trading on ASX Limited. The term 'securities' means shares, debt instruments, interests in managed investment schemes and warrants admitted to trading status on ASX. ASX Limited has Div 3, Pt 7.5 compensation arrangements in place to provide coverage for other products such as futures contracts.

RG 172.140 Where a market venue is not covered by Div 4, Pt 7.5 compensation arrangements, the licensee must have a Div 3, Pt 7.5 compensation arrangement in place. Division 3, Pt 7.5 compensation arrangements provide retail clients in appropriate circumstances with protection from certain losses (losses involving defalcation or fraudulent misuse of money or other property by a participant), or fraudulent misuse of a client's authority over property: see s885C.

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What are adequate Div 3, Pt 7.5 compensation arrangements?

RG 172.141 We will assess each arrangement individually and will be flexible in assessing whether particular arrangements are adequate. We will be concerned to ensure that retail clients have adequate redress, but we will attempt not to involve a licensee in major ‘structural’ change or investment. The Corporations Act provides flexibility with how a market venue may want to structure its source of funds to cover its Div 3, Pt 7.5 compensation arrangements: see s885H and notes 1 and 2 to this provision.

Who is responsible for Div 3, Pt 7.5 compensation arrangements?

RG 172.142 A licensee must be directly responsible for:

- (a) controlling and maintaining any compensation arrangements under Div 3 of Pt 7.5;
- (b) ensuring their ongoing adequacy; and
- (c) determining claims and payments under these arrangements.

RG 172.143 A licensee cannot satisfy its Div 3, Pt 7.5 compensation obligations by pointing to arrangements under another person’s control, such as:

- (a) individual insurance arrangements put in place by a participant in the licensee’s market; or
- (b) an external dispute resolution scheme to which some or all of the participants in the licensee’s market belong.

RG 172.144 However, it may be reasonable with appropriate safeguards for a licensee to outsource or delegate aspects of the administration of its compensation arrangements: s885I(2).

Providing information about Pt 7.5 compensation arrangements

RG 172.145 Under s792I, a licensee must make publicly available up-to-date information that helps retail investors understand their rights and remedies under the compensation arrangements that are in place under Pt 7.5. This includes information about:

- (a) the types of claims which can be made, by whom, how, and any relevant time limits for making claims;
- (b) what type of compensation may be provided and any monetary limits on that compensation;
- (c) who administers the compensation arrangements, the source of the funding, and the total size of the funding;
- (d) how long it takes to process claims, how claims are investigated and who makes the decisions about claims;
- (e) what review (if any) of decisions about claims is available; and

- (f) to whom information about the claim may be provided, and any other relevant confidentiality or privacy-related information.

RG 172.146 When choosing how information is to be made available to the public, a licensee should take into account the need to periodically update the information.

Standards for listing markets

RG 172.147 High-quality listing standards are critical to the integrity of the Australian equities market, and the trust and confidence investors have in it. We expect all Australian listing markets—and those considering a listing function—to ensure their listing standards continue to support fair, orderly and transparent markets.

RG 172.148 Our expectations of how licensees with a listing function may meet their regulatory obligations in this area relate to the content of the licensee’s listing rules and how the licensee administers its listing rules.

RG 172.149 We have set out our expectations of how licensed markets should carry out their listing function, and will continue to assess whether relevant licensees are meeting these expectations: see Appendix 1.

Self-listing and competitors trading on market

RG 172.150 Section 798C imposes requirements where a domestic licensee and its related entities are to be included in its own official list. Section 798DA imposes requirements where a domestic licensee, its related entities or a competitor of the licensee is a participant on the market venue.

Note: Sections 798C(7) and 798DA(5) provide that these sections do not apply to an overseas licensee.

RG 172.151 Under s798C, the financial products of such an entity (‘the listed entity’) may be traded on the venue operated by that licensee, if either or both the listed entity and the licensee have entered into adequate arrangements, including:

- (a) dealing with possible conflicts of interest that might arise from the listed entity’s financial products being able to be traded on the market venue; and
- (b) ensuring the integrity of trading in the listed entity’s financial products.

RG 172.152 Under s798C and 798DA, the market’s listing rules must provide for ASIC, instead of the licensee, to make decisions and to take action (or to require the licensee to take action on our behalf) in relation to various decisions, including the admission of the listed entity to the market’s official list and allowing, stopping or suspending trading of the listed entity’s financial products on the market venue.

RG 172.153 We have the powers and functions that are provided in any listing rules or arrangements made for the purposes of s798C or 798DA.

Note: Refer to *Corporations (Fees) Act 2001* and Corporations (Fees) Regulations 2001 for information on fees payable.

Obligations imposed under market integrity rules

RG 172.154 We are responsible for supervising domestic licensed market venues and making market integrity rules for domestic licensed venues and their participants. Market integrity rules are legislative instruments subject to parliamentary scrutiny and possible disallowance by parliament.

RG 172.155 We have consulted on proposals to consolidate the market integrity rules under [Consultation Paper 277](#) *Proposals to consolidate the ASIC market integrity rules* (CP 277).

E Overseas market licence

Key points

This section explains whether you may be eligible to apply for an overseas licence, and how to apply for an overseas licence.

This section also sets out the licence obligations that may apply to overseas licensees.

Legislative intention

- RG 172.156 Section 795B(2) provides that where a person is authorised to operate a market venue in a foreign country in which its principal place of business is located, a market licence may be granted authorising the same market to operate in Australia. This licence will rely somewhat on the home-country regulation.
- RG 172.157 This alternative licensing route for overseas market venues is intended to facilitate competition and avoid regulatory duplication while maintaining investor protection and market integrity: see para 7.100 of the Explanatory Memorandum. Our general approach to the licensing of overseas market venues is based on this legislative intention.
- RG 172.158 The tiered licence regime described in Sections C and D also applies to overseas licensees.

Our policy

- RG 172.159 We will only advise the Minister to grant an overseas market licence under s795B(2) if we consider that all the criteria in s795B(2) are met.
- RG 172.160 Our advice will be affected by our interpretation of the following key criteria in s795B(2):
- (a) whether the applicant is eligible to apply for an overseas market licence under s795B(2);
 - (b) whether the applicant will comply with the obligations that will apply if the licence is granted (s795B(2)(b));
 - (c) whether regulation of the market venue in the home country is sufficiently equivalent to regulation under the Corporations Act (s795B(2)(c)); and

- (d) what we consider is adequate for cooperation arrangements between ASIC and the applicant, and ASIC and the home regulatory authority (s795B(2)(d)).

Who is eligible to apply under s795B(2)?

RG 172.161 A person is only eligible to apply for an overseas licence under s795B(2) if they are authorised to operate in the home country the same market venue that they propose to operate in Australia. We will also consider the home jurisdiction regime to determine which tier the market venue would be.

RG 172.162 We consider that the requirement for the applicant to be authorised to operate the market venue in the home jurisdiction means that:

- (a) the home regulatory authority has assessed the applicant and its business activities; and
- (b) as a result of the assessment, the applicant has a licence, authorisation, permission, however described, to operate in the home jurisdiction the market venue that it proposes to operate in Australia.

RG 172.163 It means more than that the applicant is able to operate the particular market venue without contravening the law in the home jurisdiction.

Note: If an operator is not 'authorised' to operate the market venue in the home jurisdiction, they will need to apply for a domestic licence under s795B(1).

RG 172.164 We may consider that a person is authorised to operate the market venue in the home jurisdiction even if the applicant is not required under the home regime to hold, or has been exempted subject to adequate conditions from holding, a form of authorisation or licence specifically for the venue.

RG 172.165 The market venue that the applicant is authorised to operate must fall within the definition of a financial market in s767A. Provided the activities that are involved in operating the venue that would be regulated under the Australian regime are regulated in the home jurisdiction to achieve the same regulatory outcomes, the venue need not be described specifically as a market or authorised or regulated under a regime with similar scope to the Australian licence regime.

RG 172.166 We recognise a market venue may have a different form of authorisation in its home jurisdiction, for example it may be described in its home jurisdiction as an alternative trading system or a professional trading system.

RG 172.167 We will regard the facility that the applicant proposes to operate in Australia as the same market venue that the applicant is authorised to operate in its home jurisdiction if, at a minimum:

- (a) the financial products to be traded through the venue in Australia are, or will be, the same as or a subset of the products traded through the venue in the home jurisdiction;
- (b) the same operating rules will govern trading of those products, whether trading originates from Australia or the home jurisdiction; and
- (c) offers and invitations will be dealt with according to the same trading mechanism, whether the offers and invitations originate from Australia or the home jurisdiction.

RG 172.168 Our approach in this regard will be aligned with the approach taken by key foreign regulators to similar types of equivalence or substituted compliance assessments. We will take an outcomes-based approach by considering:

- (a) the regulatory outcomes achieved by the home regime, and whether it addresses the specific regulatory risks and considerations relevant to the operation of a market venue as identified in the Australian regime;
- (b) the extent of assessment of the applicant and the venue by the home regulatory authority; and
- (c) the nature and extent of any conditions on the applicant's activities in the home jurisdiction.

Sufficient equivalence test and process

RG 172.169 For all overseas market licence applications, we will assess the sufficient equivalence of your home regulatory regime. We will assess your home regulatory regime based on the following conditions.

Whether the regime is clear, transparent and certain

RG 172.170 At a minimum, this principle means that the relevant parts of the home regulatory regime must be in written form, be available to Australians in English and not be subject to arbitrary discretions. It also means the regime is:

- (a) clearly articulated and can be easily understood;
- (b) one whose rules, policies and practices are readily available to and known by all relevant persons; and
- (c) one that is applied in a consistent manner and is not subject to indiscriminate changes.

International consistency

RG 172.171 We will consider whether the regime is consistent with the IOSCO [Objectives and principles of securities regulation \(PDF 187 KB\)](#) or other IOSCO principles as applicable.

Adequately enforced in the home jurisdiction

- RG 172.172 A regulatory regime is adequately enforced if the relevant home regulatory authority:
- (a) has sufficient powers of investigation and enforcement;
 - (b) has sufficient resources to use those powers; and
 - (c) uses those powers and resources to promote compliance with the regulatory regime.
- RG 172.173 Additionally, the legal system within which the regulatory regime operates should be independent and have a reputation for integrity.
- RG 172.174 In assessing whether the home regulatory regime is adequately enforced, we will rely on matters such as:
- (a) the international reputation of the home regulatory regime;
 - (b) assessments of the home regulatory regime by the home regulatory authority; and
 - (c) assessments of the home regulatory regime by international financial institutions and other international organisations.

Same regulatory outcomes

- RG 172.175 When comparing the outcomes achieved by the two regulatory regimes, we will consider whether the home regulatory regime as it applies to the overseas market venue achieves (or will achieve when the market starts operating) each of the outcomes of market operator regulation set out at RG 172.25, as they apply to comparable domestic markets.

Adequate cooperation arrangements

- RG 172.176 You must undertake to cooperate with ASIC by sharing information and by other means: s795B(2)(d). The Minister must also be satisfied that there are adequate arrangements for cooperation between ASIC and your home regulatory authority: s798A(3)(d).
- RG 172.177 At a minimum, adequate cooperation arrangements with an overseas operator will cover how the operator will:
- (a) give ASIC notice of the matters in s792B and 793D;
 - (b) give ASIC information, reports, assistance or access (as appropriate) for the purposes of s792B, 792C, 792D, 792E, 792F or 794C.

The cooperation arrangements will also deal with notification to ASIC of relevant matters relating to the market's continuing authorisation in its home country.

What are the obligations of overseas licensees?

Specific obligations

- RG 172.178 The Corporations Act imposes a number of obligations specifically on overseas licensees. These include:
- (a) being registered in Australia as a foreign company under Div 2 of Pt 5B.2 (s792A(f));
 - (b) remaining authorised to operate the market venue in the home country and not changing the home country without prior approval (s792A(g)(i) and 792A(g)(ii));
 - (c) notifying ASIC if no longer authorised to operate the market venue in the home country (s792B(4)(a));
 - (d) notifying ASIC of significant changes to the home regulatory regime (s792B(4)(b));
 - (e) notifying ASIC of all changes to the market's operating rules (s793D(3)); and
 - (f) complying with any ASIC determination on written procedures (s793A(4)).
- RG 172.179 We can exempt tier 2 licensees from some obligations that are not core to the operator's eligibility to hold an overseas licence, such as the obligation to notify ASIC of rule changes.

Key shared obligations

- RG 172.180 The Corporations Act imposes a number of obligations that are shared by domestic and overseas licensees. Some of these obligations would only apply to tier 1 licensees, and we also retain flexibility to recommend that a licensee be exempt from specific obligations. The shared obligations include:
- (a) doing all things necessary to ensure that the market is fair, orderly and transparent (s792A(a));
 - (b) complying with the conditions on the licence (s792A(b));
 - (c) having adequate arrangements for operating the market, including arrangements for:
 - (i) handling conflicts (s792A(c)(i)); and
 - (ii) monitoring and enforcing compliance with the market's operating rules (s792A(c)(ii));
 - (d) having sufficient resources (including financial, technological and human resources) to operate the market properly (s792A(d)); and
 - (e) providing ASIC with an annual report (s792F(1)).

Excluded obligations

- RG 172.181 However, overseas licensees are not required to comply with a number of obligations, including the following (and therefore our policy on these obligations does not apply to overseas licensees):
- (a) the obligation to include specific matters in its operating rules and written procedures (s793A(3));
 - (b) the obligation to submit changes to its operating rules for disallowance by the Minister (s793E(1)); and
 - (c) the obligation to have compensation arrangements that comply with Pt 7.5 (s792A(c) and 880A).

Conditions

- RG 172.182 For some overseas operators, we may consider it is appropriate to impose additional conditions on the overseas licence. Conditions may be considered to address a gap identified in the sufficient equivalence test, or to impose an obligation that we consider necessary to ensure we have adequate oversight of the overseas market venue's activities that relate to Australia.

Implications for foreign participants

- RG 172.183 An overseas operator should be aware that an application for an overseas licence may have implications for non-Australian participants on their venue. This is because non-Australian participants on this market venue may be taken to be carrying on a financial services business in Australia. Under s911A, a person who carries on a financial services business in Australia must hold an AFS licence covering the provision of the financial services unless the person is exempt.

Note: Such a person may also need to be registered in Australia as a foreign company under Div 2 of Pt 5B.2.

- RG 172.184 In these cases we will also work with the applicant to identify the implications for the applicant, for example in relation to reporting to ASIC about activities that relate to Australia: see reg 9.12.03.
- RG 172.185 For these reasons, before submitting a licence application for an overseas licence, we expect an applicant to consider whether non-Australian participants are likely to need an AFS licence, or whether a licensing exemption exists or could be sought in respect of the foreign participants. Applicants should discuss with ASIC early in the application process the potential Australian licensing issues for the non-Australian participants on the overseas market venue.

Notes

1. Section 911A(2) provides when a person may be exempt from the requirement to hold an AFS licence. Regulation 7.6.02AG inserts s911A(2B), which is also relevant.
2. For some guidance on possible exemptions, see [Regulatory Guide 167 Licensing: Discretionary powers](#) (RG 167).

How will we assess compliance?

RG 172.186 An overseas licensee is subject to ASIC supervision for its compliance with obligations under its overseas market licence. When assessing your compliance with your licence obligations, we will consider information about how you have complied with your licence obligations as well as the following:

- (a) any self-assessment provided to ASIC by the overseas licensee of its compliance with its obligations under the home regulatory regime;
- (b) any other information provided to ASIC by the overseas licensee under the cooperation arrangements between the overseas licensee and ASIC;
- (c) any assessment made available to ASIC by the home regulatory authority of the overseas licensee's compliance with its obligations under the home regulatory regime; and
- (d) any other information provided to ASIC by the home regulatory authority under the cooperation arrangements between the home regulatory authority and ASIC.

F Can you get a market licence exemption?

Key points

This section sets out when an entity may be eligible for an exemption from a market licence.

When exemption from the obligation to hold a licence may be granted

RG 172.187 Section 791C gives the Minister the power to exempt a particular market venue or type of market venue from the operation of Pt 7.2 or from a particular provision of Pt 7.2, as well as the power to impose conditions on the exemption.

Note: Refer to the *Corporations (Fees) Act 2001* and Corporations (Fees) Regulations 2001 for information on fees payable.

RG 172.188 This section outlines our approach to recommending that the Minister exempt a market venue from the requirement to hold a licence or exempt a licensee from specified provisions of the Corporations Act. For guidance about applying for an exemption, see [Regulatory Guide 51 Applications for relief](#) (RG 51).

RG 172.189 We will only advise the Minister that an exemption should be granted in rare and exceptional circumstances. It is important to treat similar venues in a consistent way. For this reason, we expect that venues will ordinarily be licensed within the two-tier licence framework.

RG 172.190 We will normally only advise the Minister to exempt a particular market venue or type of market venue if we think there is no public benefit in regulating the market under Pt 7.2 (for example, where the regulatory outcomes of market licensing are not relevant to the market venue or are achieved without regulation under Pt 7.2; or where the cost of regulation significantly outweighs the benefits of those outcomes).

Regulatory outcomes achieved without Pt 7.2

RG 172.191 We may advise the Minister to exempt a market venue from the operation of Pt 7.2 because it is subject to other forms of regulation that ensure that the market operator regulatory outcomes are achieved without regulation under Pt 7.2.

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Regulatory cost significantly outweighs benefits

- RG 172.192 In deciding whether to advise the Minister to exempt a market venue because the cost of regulation significantly outweighs the benefits, we will take into account factors such as:
- (a) the volume of trading on the venue;
 - (b) the characteristics of the market operator, including whether it operates any other market venues;
 - (c) the nature of products traded on the market venue, including the purposes for which they are acquired; and
 - (d) the number of products traded on the market venue. (If the financial products of more than one issuer are traded on a venue, we are unlikely to advise the Minister to exempt the venue.)

Example: Low volume markets

We have made the [Corporations \(Low Volume Financial Markets\) Instrument 2016/888](#) which exempts low volume venues from the operation of Pt 7.2 on the condition that the operator is named on our low volume market register maintained for the purposes of s791C.

A low volume financial market is a market venue on which no more than 100 completed transactions are entered into and the value of the transactions entered into does not exceed \$1.5 million in the 12-month period commencing on the date the market venue was named in the register or any subsequent 12-month period. Because these markets are limited in size and complexity, there is little regulatory benefit associated with subjecting them to the Australian market licence regime.

Other circumstances

- RG 172.193 We will not advise the Minister to exempt an overseas market venue solely because the market is subject to regulation in the foreign country where its principal place of business is located. The operator of such a market should seek a licence under s795B(1) or (2).
- RG 172.194 We will not advise the Minister to exempt a market solely because there is doubt about whether the products traded on the market are, or should be, within the definition of financial product. In these circumstances, the operator should seek a declaration under s765A(2).

Conditions

- RG 172.195 We will not advise the Minister to exempt a particular market venue or type of market venue where we consider that numerous substantive conditions would need to be imposed on the exemption.

- RG 172.196 However, we may advise the Minister to impose conditions on an exemption where relevant, including conditions such as:
- (a) the operator must hold an AFS licence or be exempt from holding an AFS licence;
 - (b) the key features of the market venue must remain as they were when the exemption was granted; and
 - (c) the operator must report to ASIC periodically so that we can satisfy ourselves that the operator is complying with the conditions on the exemption.

When exemptions from a provision of Pt 7.2 may be granted to a licensee

- RG 172.197 If a market has specific circumstances that mean aspects of the standard two-tiered regime are not appropriate, the operator may seek additional or specific relief from some licence obligations.
- RG 172.198 We will consider applications for relief from particular provisions of Pt 7.2 in accordance with established policy under RG 51, including whether we would propose to impose conditions on such relief.

G ASIC supervision, suspension or revocation of a licence, and other matters

Key points

This section explains how we supervise licensed markets, including when we may advise the Minister to suspend or revoke a licence.

ASIC supervision

- RG 172.199 Part 7.2A provides a power for ASIC to make market integrity rules dealing with trading activities and conduct in relation to domestic licensed market venues (i.e. those operated by persons licensed under s795B(1)), including participants of those venues.
- RG 172.200 The rule-making power does not apply to overseas market venues that are licensed to operate in Australia under s795B(2).
- RG 172.201 The market integrity rules include rules that assist ASIC in the surveillance of the trading activity that occurs on domestic market venues. For example, Part 7.1 of the ASIC Market Integrity Rules (ASX Market) 2010 and the ASIC Market Integrity Rules (Chi-X Australia Market) 2011 requires the operators of certain venues to establish a network connection into our market surveillance system and, during the course of each trading day, to provide a live data feed consisting of order and trade information.
- RG 172.202 However, not all licensees will have an obligation to establish a network connection into the Market Surveillance System. Those operators may be required to provide order and trade information to ASIC through other arrangements to facilitate our supervision.

Annual report and ASIC assessment

- RG 172.203 Our supervision of licensed market venues is facilitated by a number of legal tools and obligations, including the licensee's obligation to provide an annual report to ASIC and our powers to require information or assistance.
- RG 172.204 A licensee's annual report must include an analysis of the extent to which the licensee considers it has complied with the licensee obligations: see reg 7.2.06(c).
- RG 172.205 Depending on factors including the nature, scale and complexity of your market venue, whether you are a tier 1 licensee, and whether you are a

domestic or overseas licensee, we may expect the analysis under reg 7.2.06(c) to:

- (a) explain how the licensee has complied with its licence obligations. This could take the form of stating the objective outcomes and/or standards against which the licensee has measured its compliance with each of its obligations and explain how those outcomes and/or standards evidence compliance with the particular obligation;
- (b) identify and explain any divergences during the year between the licensee's planned and actual activities and resources for performing its obligations and for monitoring its own performance of those obligations; and
- (c) state and explain the licensee's conclusions about:
 - (i) the extent to which it has fully complied with its licence obligations, which can be by reference to the outcomes and standards identified in (a);
 - (ii) if less than full compliance is identified, how the licensee will ensure it achieves full compliance with each obligation in the future;
 - (iii) the adequacy and effectiveness of its rules, systems and monitoring arrangements in achieving a fair, orderly and transparent market;
 - (iv) the strengths and any weaknesses in its activities and resources for performing each of its obligations;
 - (v) the strengths and any weaknesses in its activities and resources for monitoring its own performance of each of its obligations; and
 - (vi) if any inadequacy or weaknesses have been identified, how the licensee proposes to address or has addressed those matters.

RG 172.206 Under the Corporations Act, we have the capacity to conduct periodic assessments of a licensee's compliance with any or all of its regulatory obligations. We also have powers to request documents or other assistance from a licensee.

Suspension and revocation of a licence

RG 172.207 Section 797B provides that the Minister may suspend or revoke a licence immediately if the licensee is no longer carrying on the business of operating the market. We may also make this decision as the delegate of the Minister.

RG 172.208 In considering and advising the Minister whether to suspend or revoke a licence, we will take into account whether the licensee has not operated a market venue in Australia for a period of time, or whether a market venue

that the licensee is authorised to operate has been dormant for a period of time.

- RG 172.209 For licensees that are no longer operating a market venue or whose established venue has been dormant, we are likely to consider suspension or revocation of a licence if the relevant period has been six months or more. For licensees of newly established market venues, we are likely to consider suspension or revocation of a licence if the venue appears to be dormant for a period of 12 months or more.

Change in control of a tier 1 licensee

- RG 172.210 A change in the control of a licensee can lead to changes in the strategic direction, resource commitment, product offering and client base of a market. For this reason, we will assess whether a tier 1 licensee under new, or proposed new, control is likely to continue to meet its obligations, including in relation to having adequate resources and conflict management. This approach is consistent with the approach taken to AFS licensees.

H Applications

Key points

This section provides an overview of how you may apply for a licence or an exemption from a licence.

How to apply for a licence or exemption

RG 172.211 The Minister may grant an applicant a market licence or an exemption if satisfied that the criteria in s795B(1) or (2) or s791C are met.

RG 172.212 For licence applications, we will consider:

- (a) the structure of the market;
- (b) the nature of the activities conducted on the market;
- (c) the size of the market including volume;
- (d) the nature of the financial products dealt with on the market;
- (e) market users;
- (f) participants in the market; and
- (g) the technology used in the operation of the market.

See s798A(2) and 795B.

RG 172.213 For all applications, we expect the applicant to certify that the information and documents provided with the application are true, correct and complete. We will also decide whether your application requires public consultation on a case-by-case basis. The factors we will consider when making this decision include:

- (a) whether the market venue may have a regulatory impact on existing licensed markets;
- (b) whether the market venue may affect the reputation of Australia as a financial centre;
- (c) the features of the market venue, including:
 - (i) the size of the market venue; and
 - (ii) the market users; and
 - (iii) the likely impact of the market on Australian investors and the integrity of Australian financial markets.

RG 172.214 We may publish application forms or other guidance on our website for some or all types of applications.

Applying for a domestic licence

- RG 172.215 An application must be made in accordance with s795A and include the information and documents referred to in regs 7.2.11 and 7.2.12. Where the regulations require ‘a description’ or ‘details’ of certain matters, we expect an applicant to give sufficient information to provide ASIC with a comprehensive understanding of the relevant matter.
- RG 172.216 An applicant must provide documents or information that positively demonstrate that it meets the criteria in s795B(1). In particular, the applicant must demonstrate that it has the skills, expertise, procedures and capacity to satisfy each of its obligations when the market venue commences and on a continuing basis: see s795B(1)(b).

Application for an overseas licence

- RG 172.217 An applicant must provide ASIC with information and documents relevant to all the criteria and matters in s795A, 795B(2), 798A(2)(a)–(f), 798A(3)(a)–(c) and regs 7.2.14 and 7.2.15.
- RG 172.218 This means you must provide information and documents that:
- (a) explain the matters in s798A which the Minister must consider when deciding whether to grant a market licence; and
 - (b) positively demonstrate that the applicant meets all the criteria in s795B(2).
- RG 172.219 The application and all information and documents provided with the application must be in English.

Application for an exemption

- RG 172.220 If you want the Minister to exempt a particular market venue or type of market venue, your application should fully describe:
- (a) the operation of the particular market venue or type of market venue; and
 - (b) why it should be exempted from the operation of Pt 7.2.

Appendix 1: Listing principles

Principles for listing rules

Principles for admission criteria

- RG 172.221 *Appropriate standards:* Listing rules set standards for quality, size and operations that are consistent with the expectations of a listed entity in the Australian financial market.
- RG 172.222 *Viability:* The entity can demonstrate sufficient working capital is available to achieve the business objectives stated in the capital raising for listing.
- RG 172.223 *Robust governance:* The entity can demonstrate that directors, management and systems have suitable integrity, robustness and the relevant experience required to support the obligations of a listed entity.
- RG 172.224 *Legitimate intent to access capital market:* The entity's reasons for accessing the Australian capital market are to raise capital to support genuine business plans for growth and innovation.
- RG 172.225 *Genuine secondary market liquidity:* The entity can demonstrate genuine and robust investor interest at the point of listing.
- RG 172.226 *Compliance listings:* The only circumstances where it may be appropriate for an entity to not produce a regulated disclosure document are where the entity is not raising capital upon listing and:
- (a) the securities for which listing is sought are already listed on an appropriate securities exchange. An appropriate securities exchange is an Australian securities exchange or a foreign securities exchange listed in ASIC [Corporations \(Approved Foreign Financial Markets\) Instrument 2015/1071](#); or
 - (b) the securities for which listing is sought are distributed in specie to shareholders of an issuer who is already listed on an appropriate securities exchange as part of a reconstruction (including a reorganisation of a listed stapled structure) or demerger transaction; or
 - (c) the entity is a holding company formed as part of a reorganisation transaction and its securities are issued in exchange for those of one or more issuers listed on an appropriate securities exchange.

Principles for ongoing obligations

- RG 172.227 *Disclosure:* The listing rules require timely, clear and complete disclosure to investors of information material to the price of a listed entity's securities.

- RG 172.228 *Rights of new and existing shareholders*: The listing rules require that issuing and maintaining securities is done with rights that are fair to both existing and new shareholders.
- RG 172.229 *Engagement with shareholders*: The listing rules set requirements for:
- (a) meetings and other communications with shareholders to occur in a manner that facilitates constructive engagement; and
 - (b) active engagement by listed entities with shareholders for particular corporate actions, transactions involving persons in positions of influence and significant directional changes.
- RG 172.230 *Trading*: The listing rules impose requirements on listed entities that facilitate the efficient trading of securities. For example, rules requiring:
- (a) the free transfer of ownership interests; and
 - (b) that any further shares issued (such as under rights issues) are quoted on the market in a timely way.
- RG 172.231 *Suitability*: The listing rules set ongoing expectations consistent with the listing criteria, and articulate the circumstances in which the market operator will pursue de-listing.

Administration of listing rules

Principles for good governance

- RG 172.232 *Responsibility sits with the board and senior management*: The governance arrangements of the licensed market operator demonstrate a clear and active understanding that:
- (a) the responsibility for meeting the statutory obligations as a market licensee—and the strategic approach to the administration of the listings function—sits with the board of the market licensee; and
 - (b) the cultural and strategic approach to the administration of the listing rules is set by the board and senior management of the market licensee—with a clear focus on the interests of investors.
- RG 172.233 *Reporting and evaluation*: The governance arrangements of the market operator reflect an approach to the discharge of statutory obligations that is supported by routine, data-driven, evidence-based reporting, and enables timely evaluation of the extent:
- (a) statutory obligations are being met;
 - (b) administration is consistent with the substance, spirit, intention and purpose of the listing rules; and
 - (c) current settings are fit for existing and future purpose.

RG 172.234 *Conflict identification and management*: Market operators should carefully consider appointees to the board and internal management committees to ensure that any actual or apparent conflicts of interest of the appointees arising from their roles and relationships with other entities (such as listees and their advisers, and majority shareholders) are managed in a manner to meet their general licensee obligations.

Principles for resourcing

RG 172.235 *Sufficient resources should be available at all times*: The licensed market operator should allocate sufficient resources to the administration of the listing rules to ensure, at all times:

- (a) rigorous and substantive testing of entities against admission criteria;
- (b) robust and ongoing compliance assessment of listed entities, as measured against the substance, spirit, intention and purpose of the listing rules; and
- (c) enforcement action is taken where effective and appropriate.

RG 172.236 This includes resourcing that supports, at all times, the licensed market operator to:

- (a) evaluate the suitability of business models;
- (b) evaluate wider suitability for listing issues;
- (c) challenge, where appropriate, listee boards and executives on compliance with the substance, spirit, intention and purpose of the listing rules;
- (d) evaluate the appropriateness and effectiveness of any enforcement action, and have a sound basis for selecting the chosen approach; and
- (e) proactively anticipate risks and changes in the operating environment, and deal with them in a timely and effective manner.

RG 172.237 *Sufficient resourcing*: In order to achieve the outcomes above, the licensed market operator should maintain:

- (a) staff with the requisite level of expertise, seniority and judgement—and sufficient redundancy for peak times;
- (b) robust organisational systems and processes, including:
 - (i) resourcing models;
 - (ii) escalation processes;
 - (iii) lessons learned and continuous improvement models;
 - (iv) fully auditable trails of material decisions taken; and
 - (v) effective service-level agreements with outsourced or delegated parties;

- (c) technology and quantitative systems that provide:
 - (i) real-time monitoring;
 - (ii) data capture and interrogation; and
 - (iii) robust and granular trend analysis across a range of critical measures (e.g. quality of compliance);
- (d) meaningful statistics that demonstrate the monitoring and enforcement activities and relevant outcomes, and publish these in order to promote investor confidence and deter misconduct.

Principles for approach and culture

- RG 172.238 *Cultural approach*: Administration should be driven by a cultural pre-disposition within the market operator towards the substance, spirit, intention and purpose of the listing rules, with a focus on the interests of investors.
- RG 172.239 *Characteristics of approach*: The approach by the market operator is characterised by an emphasis on decision-making, and exercising judgement and discretion, that is:
- (a) proactive (versus reactive);
 - (b) substance over form;
 - (c) outward rather than inward-looking—in a way that, for example, readily identifies global trends before they crystallise in the Australian market; and
 - (d) based on data and evidence.
- RG 172.240 *Serving stakeholders*: Professionalism and efficiency should be integral to serving all stakeholders.

Appendix 2: Market licensee systems and controls

- RG 172.241 This appendix outlines our expectations for domestic market licensees to:
- (a) maintain adequate systems and controls to ensure that the market they operate is fair, orderly and transparent;
 - (b) maintain sufficient resources in relation to their systems and controls that are appropriate for the nature, size and complexity of the market;
 - (c) have in place appropriate testing arrangements, adequate business continuity plans, sufficient capacity and adequate security in relation to their systems. Procedures should be in place to monitor and review those arrangements periodically; and
 - (d) notify ASIC of major system changes in sufficient time before the changes occur, and have appropriate processes to communicate information technology system management to stakeholders.
- RG 172.242 Under s792A, holders of a market licence under s795B(1) (market licensees) must, to the extent it is reasonably practicable to do so, do all things necessary to ensure that the market they operate is a fair, orderly and transparent market.
- Note: In this appendix, the term ‘market licensees’ refers to domestic market licensees only—that is, holders of an Australian market licence under s795B(1).
- RG 172.243 Market licensees should have sufficient resources, including appropriate technological resources.
- RG 172.244 As markets have become more automated and high speed in nature, we believe it is appropriate to supplement our guidance on market licensee systems and controls. This appendix outlines our expectations under the Corporations Act for domestic market licensees to maintain adequate systems and controls and ensure that their technology releases are well managed.

How this guidance applies

- RG 172.245 This guidance applies to all domestic market licensees—that is, holders of a market licence under s795B(1). In an increasingly technology-driven and competitive market environment, it is important that our expectations are clear and consistently applied to these market licensees, even though the markets may differ in their nature, size and complexity. The high-level principles in this appendix constitute a broad framework for systems and controls relevant to all these market licensees. We expect market licensees’ systems and controls to be proportionate to the scale and scope of their business.

- RG 172.246 In general, we expect market licensees' systems to be robust enough to perform reliably through stressed market conditions and ensure continuity of the trading that takes place through the market, including having sufficient capacity to cater for spikes in the volume of messaging traffic. We also expect that all market participants seeking access to a market licensee's systems or services (including co-location services) should have access on fair, non-discriminatory terms.
- RG 172.247 The guidance provided in this appendix about our expectations for systems and controls is relevant to each market to different degrees. How the guidance applies will depend on the size of the market, the complexity of trading and the number and type of market participants and connections in the market. Examples used in this appendix are not intended to be exhaustive.
- RG 172.248 We will assess a market licensee's compliance with the principles in this appendix as part of our periodic assessment of the licensee and in our assessment of any changes the licensee may propose to make to its systems. We will also take into account the licensee's self-assessment of the extent to which it has complied with these principles.

Appropriate testing arrangements for trading systems

- RG 172.249 Market licensees should have appropriate testing arrangements to ensure that their systems are functional and reliable, and do not pose a threat to fair and orderly trading. Testing is a crucial part of ensuring that trading and other key systems function as intended.
- RG 172.250 The testing methodologies should be designed to ensure that:
- (a) the operation of the system complies with relevant regulatory obligations;
 - (b) controls embedded in the system work as intended; and
 - (c) electronic trading systems can continue to work effectively in stressed market conditions.
- RG 172.251 When introducing or modifying an electronic trading system, relevant testing should be performed before going live, including but not limited to the types of testing listed below. The results of trading systems testing should be documented and made available to ASIC on request.

Connectivity testing

- RG 172.252 A market licensee should perform connectivity testing to validate the continuity of network communications by verifying that the network is properly connected, with message traffic taking the desired route. For example, if a market licensee plans to introduce a new electronic trading system, it could use a ‘simulated trading environment’ to make sure that the system and market participants are properly connected to enable interactions to take place.
- RG 172.253 Connectivity testing could also involve testing data feeds to the market licensee, such as from market data providers, relevant clearing and settlement facilities, as well as the connectivity between market licensees.
- RG 172.254 Market licensees subject to regulation under the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011 should test their connectivity with each other to ensure they comply with their cooperation requirements for the coordination of trading suspensions and information sharing under Section I of [Regulatory Guide 223](#) *Guidance on ASIC market integrity rules for competition in exchange markets* (RG 223).

Conformance testing

- RG 172.255 A market licensee should perform conformance testing designed to determine whether a system meets predefined standards—for example, whether the system complies with Financial Information eXchange (FIX) protocols and specifications, and that quality assurance standards are being met. It should include interoperability testing and confirmation of associated internal procedures.
- RG 172.256 Conformance testing should also include testing for compliance with the market licensee’s operating rules and procedures, obligations under the Corporations Act or ASIC market integrity rules (to the extent that they apply to systems and controls).

Regression testing

- RG 172.257 A market licensee should perform regression testing to detect potential problems in existing functional and non-functional areas of a system after changes and/or enhancements have been made. For example, when undertaking system enhancements, the market licensee should review relevant legacy code and infrastructure to evaluate the compatibility of the system changes with existing software and hardware.

Functional testing

RG 172.258 A market licensee should perform functional testing to ensure that a system works as intended by verifying its features against its functional requirements. For example, the market licensee should test the functionality of orders in the trading system (i.e. entry, amendment, cancellation and execution of an order). Testing can also involve the functionality of the interrelation of one order to another, such as iceberg orders or pegged orders.

Testing environment for stakeholders

RG 172.259 For changes affecting market participants, market data providers or the ASIC Australian market regulation feed, a market licensee should provide a testing environment where affected stakeholders can test their systems against the market licensee's modifications.

RG 172.260 In addition to the testing for trading systems, the market licensee should have testing environments with sufficient capacity to enable market participants to adequately stress test algorithmic programs and order flow (e.g. in a low-latency, high-message volume, volatile environment). This is especially relevant for large, fully automated markets with high levels of message traffic.

Adequate business continuity planning

RG 172.261 Market licensees should have adequate business continuity, backup and disaster recovery plans for each of their systems that support order entry, order routing, execution, market data, trade reporting and trade comparison.

RG 172.262 We expect market licensees to have arrangements in place to ensure that critical business functions will be available to stakeholders that require access, and the impact of a disruption or outage of services on stakeholders is minimised.

RG 172.263 Market licensees should:

- (a) consider an adequate range of possible scenarios related to their systems and controls;
- (b) have the supporting policies, guidelines and procedures needed to address disruptive incidents (including but not limited to system failures), and ensure a timely resumption of services; and
- (c) back up business and compliance critical data that flows through their electronic trading systems.

- RG 172.264 Depending on the nature, size and complexity of their business, market licensees should consider having procedures in place for moving to, and operating the electronic trading system from, a backup site.
- RG 172.265 We expect market licensees to have adequate arrangements to ensure timely access to appropriately skilled and knowledgeable internal and vendor technical support for their specific system configurations, particularly while implementing system changes.
- RG 172.266 International standard-setting organisations offer additional information and guidance that market licensees may consider when developing their business continuity arrangements. Examples include the following:
- (a) the International Standards Organization (ISO) standard, *ISO 22301:2012 Societal security: Preparedness and continuity management systems—Requirements* specifies requirements for setting up and managing an effective business continuity management system;
 - (b) in Australia, Standards Australia has published HB 292–2006 *A practitioner’s guide to business continuity management*;
 - (c) specifically in relation to the financial industry, in August 2006, a joint forum of IOSCO, the Basel Committee on Banking Supervision of the Bank for International Settlements, and the International Association of Insurance Supervisors issued a paper, [High-level principles for business continuity \(PDF 225 KB\)](#), which set out principles-based guidelines on effective business continuity management.

Capacity management and stress testing

- RG 172.267 Market licensees should have sufficient system capacity to accommodate reasonably foreseeable volumes of trading activity. We expect market licensees to have arrangements in place to prevent capacity limits on messaging from being breached.
- RG 172.268 Market licensees should keep capacity requirements under review and conduct capacity stress tests regularly. These systems should be adaptable to manage trading behaviours (such as quote-stuffing) and scalable to allow for changes in response to elevated message levels and/or stressed market conditions that might breach their capacity. Stress testing of infrastructure, computers and applications should also be conducted regularly.

Adequate systems security

- RG 172.269 Market licensees should have adequate physical and electronic security arrangements to protect their systems, and the premises where systems are housed. The security arrangements should be designed to prevent misuse or unauthorised access to systems, and to ensure the integrity of the data and information in the systems.
- RG 172.270 There should be procedures in place to restrict access to servers and systems to internal or external personnel with appropriate security clearance. For example, systems should be protected by operating system and application security to limit internal access to unauthorised personnel, and by firewalls to prevent unauthorised external access. A proactive strategy should be in place to prevent cyber attacks. Server rooms, co-location facilities and data centres should be secure from unauthorised physical access.

Periodic monitoring and review

- RG 172.271 We expect market licensees to monitor and review the above arrangements. To ensure that systems and controls remain continually effective, market licensees should periodically monitor and review their arrangements for systems testing, business continuity, capacity management and security. They should remedy deficiencies and deal with identified problems in an appropriate and systematic way, as soon as reasonably possible.
- RG 172.272 The monitoring and review arrangements should be proportionate to the nature, size and complexity of the market. A market licensee may conduct these periodic reviews as part of a self-assessment, or may consider engaging an independent third party (such as an independent expert in exchange markets or an information systems auditor) to perform the necessary reviews.
- RG 172.273 The frequency of reviews will also vary according to the nature, size and complexity of the market (e.g. annual, semi-annual, quarterly or monthly). Review results may be communicated to ASIC as part of the market licensee's annual report under s792F.

Stakeholder communications

- RG 172.274 Market licensees should have appropriate processes in place to release information technology system management plans to stakeholders (i.e. issuers, investors, market participants, vendors, other market licensees and ASIC). The plans should clearly identify mandatory versus optional changes and allow sufficient time for stakeholders to adapt to the changes.

RG 172.275 The plans should be maintained for at least a 12-month period and should be routinely updated so that industry has a rolling schedule of upcoming changes. Market licensees should take into account the commercial, technological, supervisory and regulatory impact of changes to their systems and controls on stakeholders, and assess stakeholder readiness to deal with the impact of the changes.

RG 172.276 We consider it critical that market licensees promote the orderly implementation of market changes where there are systems implications for market users, including timely distribution of sufficiently detailed notifications, and that best endeavours are used to ensure project schedules are adhered to once established. Every effort should be made to ensure that market licensees, vendors and market participants maintain appropriate quality standards.

Note: In this appendix, 'market users' means investors who acquire or dispose of financial products in a financial market. Investors may be market participants dealing for themselves or, where participants act as intermediaries, the clients of the participants.

RG 172.277 For example, for material system changes, market licensees should obtain stakeholder readiness attestations on the changes before their final implementation. Where attestations cannot be obtained or it is impractical, appropriate alternative arrangements should be in place between the licensee and stakeholders.

Note: For examples of what is likely to be considered a material system change, see RG 172.281.

Notification to ASIC of material system changes

RG 172.278 Market licensees should notify ASIC of material system changes in sufficient time before they occur so that we can consider the market integrity issues associated with these changes, both for our own surveillance function and for the wider market. The notification should outline the approach to managing the change, key project milestones and their preferred dates, including risk management, communication to the market, and the anticipated impact on market participants and the wider market.

RG 172.279 When assessing these changes, we expect market licensees to take into account the impact of their initiatives on market integrity. We may discuss with a market licensee the implications of its system changes for stakeholders. We may request that an independent third party verify the changes to ensure they are managed appropriately and in an orderly manner. The third party may be an independent expert in exchange markets, an information system auditor or another person that we consider is suitably qualified and experienced.

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RG 172.280 When classifying material system changes, a market licensee should consider the likely impact on market participants, and the fair, orderly and transparent operation of the wider market. A material change is likely to involve a high degree of effort or complexity in implementation and/or have significant stakeholder impact.

RG 172.281 Examples of what is likely to be considered a material change, subject to discussion with ASIC, include:

- (a) a change of trading system by a market licensee;
- (b) the introduction of new infrastructure allowing the physical proximity of processing servers to minimise latency;
- (c) a change to order matching and execution algorithms; and
- (d) the change or removal of a financial threshold for an order type.

Key terms

Term	Meaning in this document
AFS licence	A licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A.
ASIC	Australian Securities and Investments Commission
ASX	ASX Limited or the exchange market operated by ASX Limited
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
CP 277 (for example)	An ASIC consultation paper (in this example numbered 277)
financial market	As defined in s767A of the Corporations Act, a facility through which offers to acquire or dispose of financial products are regularly made or accepted
financial product	A product as defined in Div 3 of Part 7.1 of the Corporations Act
FIX	Financial Information eXchange
IOSCO	International Organization of Securities Commissions
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
market participant	As defined in s761A of the Corporations Act
NGF	National Guarantee Fund
operating rules	As defined in s761A of the Corporations Act
RG 172 (for example)	An ASIC regulatory guide (in this example numbered 172)
s792B (for example)	A section of the Corporations Act (in this example numbered 792B), unless otherwise indicated
SEGC	Securities Exchanges Guarantee Corporation

Related information

Headnotes

financial markets, financial market, licence, licensing, market operator, licence application, licence exemption, domestic market, overseas market, market licence obligations

Legislative instruments

[ASIC Market Integrity Rules \(Competition in Exchange Markets\) 2011](#)

[Corporations \(Approved Foreign Financial Markets\) Instrument 2015/1071](#)

[Corporations \(Low Volume Financial Markets\) Instrument 2016/888](#)

Regulatory guides

[RG 51](#) *Applications for relief*

[RG 141](#) *Offers of securities on the internet*

[RG 167](#) *Licensing: Discretionary powers*

[RG 211](#) *Clearing and settlement facilities: Australian and overseas operators*

[RG 223](#) *Guidance on ASIC market integrity rules for competition in exchange markets*

Legislation

Corporations Act, Ch 2A; Pts 7.2, 7.4, 7.5, 7.5A; s9, 46, 201A, 206B, 761A, 765A, 766D, 767A, 768A, 791A, 791C, 792A–792F, 792I, 793A, 793D, 793E, 794A, 794C, 795A, 795B, 797B, 798A, 798C, 798DA, 798E, 789H, 880A, 853C

Corporations Amendment (Crowd-sourced Funding) Act 2017

Corporations (Fees) Act 2001

Corporations (Fees) Regulations 2001

Corporations Regulations, Sch 6; regs 7.2.06, 7.2.07, 7.2.08, 7.2.11, 7.2.12, 7.2.14, 7.2.15, 7.6.02AG, 9.12.03

Explanatory memorandum to the *Financial Services Reform Act 2001*

Consultation papers

[CP 277](#) *Proposals to consolidate the ASIC market integrity rules*

Other documents

IOSCO, [Objectives and principles of securities regulation](#)

IOSCO, [Principles on outsourcing by markets](#)

IOSCO, BCBS & IAIS (joint forum), [High-level principles for business continuity](#)