

Submission to ASIC Consultation Paper 386: Governance of AI in Financial Markets

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To Whom It May Concern,

I am a finance and economics student at Melbourne University currently developing a paper on the regulation of AI in Australia's financial markets. This area of interest has been reinforced by my recent attendance at the AI for Good 2025 Global Summit. I welcome ASIC's initiative to modernise Australia's market integrity framework to reflect the integration of rapidly changing technology (such as artificial intelligence (AI) and machine learning (ML)) in financial markets and to improve clarity and consistency across the market integrity rules.

This submission broadly supports ASIC's proposals to enhance accountability, governance, and oversight of trading systems, with some recommendations in line with Australia's technology-neutral and principles-based approach to regulation.

Please find my feedback to specific questions below.

B1Q1: Definition of 'Trading Algorithm'

Do you agree with our definition of 'Trading Algorithm'?

- **Partially agree.**
 - The proposed definition provides a clear explanation of the ways in which trading algorithms can operate in financial markets.
 - However, it is vague in its treatment of AI and ML-driven trading algorithms, which ASIC identifies as having unique risk characteristics (CP 386, p. 15).
 - The definition effectively conflates traditional deterministic algorithms with adaptive AI systems, which differ substantially in opacity, explainability, and the potential for emergent behaviour.
 - Moreover, the carve-out clause beginning ***"but does not include systems or processes used only..."*** is unnecessarily convoluted and risks excluding adaptive systems that combine routing and parameter determination. ASIC could clarify that the intention is to exclude purely mechanical or administrative processes (such as order routing, confirmation generation, or post-trade recordkeeping).

B1Q2: Governance and Testing Requirements

Do you agree with our proposal to require a trading participant to (a) have governance and controls, (b) test trading algorithms, and (c) have immediate suspension capabilities? Should these requirements extend to client algorithms?

- **Agree, and recommend extending these requirements to client algorithms.**
 - Extending the same standards to client algorithms is critical given the interconnectedness of modern trading ecosystems.
 - Algorithms may be developed, operated, and/or owned by external users but interact directly with shared market infrastructure. The emerging risks posed by AI- and ML-driven algorithms on market stability are the same regardless of whether those algorithms were developed in-house or by external clients.
 - Client algorithms should therefore be subject to the same testing and oversight requirements which also ensures consistent accountability across the trading chain.

B1Q4: Material Changes to Algorithms

When would you consider a change to an algorithm to be material?

Response:

A change should be considered material whenever it alters the parameters, objectives, or decision logic of the trading algorithm.

- For traditional algorithms, materiality can often be modelled deterministically.
- For AI- and ML-driven systems, minor parameter recalibrations can lead to unintended and opaque behavioural shifts as the model continues to learn or adapt.
- Consequently, regulators should adopt a lower threshold for materiality in the context of adaptive algorithms, recognising their potential to autonomously evolve in real time, generating decisions which cannot be easily explained and may not be predictable ex ante.

Recommendation:

ASIC could consider issuing supplementary guidance that distinguishes between material changes in deterministic algorithms versus material changes in adaptive algorithms (providing a definition of the latter) so as to ensure proportionality and clarity in compliance.

B2Q2: Replacement of AOP Definitions with ‘Trading System’ and ‘Trading System Requirements’

Do you agree with inserting the terms ‘Trading System’ and ‘Trading System Requirements’ to replace the AOP-related definitions in Rule 1.4.3?

- **Agree, with a caution regarding scope.**

- The existing definitions are out-dated and do not accurately reflect current market practices, thereby weakening accountability mechanisms for traders.
- However, defining a Trading System as “any system for submitting Trading Messages into a Trading Platform” (i.e., as a technologically neutral substitute for Automated Order Processing (AOP)) risks narrowing the scope of how trading systems operate in financial markets.

Recommendation:

As trading systems become increasingly sophisticated, the functions they perform are not directly interchangeable with the processes defined by AOP. I would therefore recommend expanding the proposed definition of Trading System to reflect its broader functional scope beyond managing the entry of trading messages being submitted into a trading platform.

B7Q1 — Amendments to Part 5.7 (False or Misleading Appearance Rules)

Do you agree with our proposal?

- **Agree in principle but recommend retaining and modifying Rule 5.7.3.**
 - The proposed clarifications to Rules 5.7.1 and 5.7.2 are appropriate and valuable.
 - However, the repeal of Rule 5.7.3 removes an explicit provision that currently extends market manipulation prohibitions to automated trading.
 - While ASIC’s move toward technology-neutral language is logical, repealing 5.7.3 without replacement risks losing the clarity that Trading Systems and Trading Algorithms themselves remain bound by market manipulation prohibitions.

Recommendation:

Retain a modified version of 5.7.3 to maintain this clarifying function, for example:

“A Market Participant must also ensure compliance of their Trading Systems and Trading Algorithms with this Part 5.7.”

Conclusion

ASIC’s consultation represents an important step toward strengthening market integrity as technological developments continue to transform financial markets. This feedback seeks to improve clarity in ASIC’s proposed amendments.

I am very passionate about this topic and commend ASIC for initiating this consultation. I welcome any opportunity to engage further as reforms progress. I also recognise that there will be a wide range of views on the topic and my points above are based primarily on academic research rather than industry practice.

Sincerely,

Mia Wegener