



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 266

Guidance on ASIC market integrity rules for participants of futures markets

May 2018

About this guide

This guide is for market participants subject to the ASIC Market Integrity Rules (Futures Markets) 2017 and ASIC Market Integrity Rules (Futures Markets – Capital) 2017.

It gives guidance on how market participants can comply with their obligations under these rules.

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 guide was issued in May 2018 and is based on legislation and regulations as at the date of issue. This guide consolidates relevant guidance previously found in:

- Superseded Regulatory Guide 214 *Guidance on ASIC market integrity rules for ASX and ASX 24 markets*, issued July 2010, reissued August 2010, February 2014, May 2015 and November 2015
- Superseded Regulatory Guide 223 *Guidance on ASIC market integrity rules for competition in exchange markets*, issued 4 May 2015
 Note: See also [Regulatory Guide 172](#) *Financial markets: Domestic and overseas operators* for guidance previously found in superseded Regulatory Guide 223.
- Superseded Regulatory Guide 226 *Guidance on ASIC market integrity rules for capital and related requirements: ASX, ASX 24, Chi-X and APX markets*
- Superseded Regulatory Guide 250 *Guidance on ASIC market integrity rules for risk management and other requirements: ASX 24 market*

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

We are responsible for supervising trading on Australian domestic licensed financial markets.

As part of our supervisory responsibilities, we make market integrity rules and monitor compliance by market participants with those rules.

This regulatory guide gives guidance on the obligations of participants of futures markets in relation to:

- risk management for house accounts;
- supervisory policies and procedures;
- minimum presence requirements for foreign market participants;
- client detail record keeping;
- crossing systems;
- suspicious activity reporting; and
- capital requirements.

Supervision of trading on domestic licensed financial markets

- RG 266.1 We are responsible for supervising the activities and the conduct of business by market participants in relation to domestic licensed markets (i.e. financial markets operated by persons licensed under s795B(1) of the *Corporations Act 2001* (Corporations Act)).
- RG 266.2 We are also responsible for supervising compliance with the Corporations Act and for making and supervising compliance with market integrity rules.
- RG 266.3 Australian market licensees are responsible for the operation of their markets and for monitoring and enforcing compliance with their markets' operating rules, which include their listing rules.

ASIC market integrity rules

- RG 266.4 Under Pt 7.2A of the Corporations Act, we are able to make market integrity rules dealing with activities and conduct in relation to domestic licensed financial markets, including the activities and conduct of market participants. We are also responsible for granting waivers from the obligation to comply with a provision of the market integrity rules.

Communicating with ASIC

- RG 266.5 Market participants can contact ASIC directly to ensure that market integrity matters are known and addressed in an efficient and timely manner.
- RG 266.6 You may contact ASIC using the [market entity compliance system](#) (MECS), by direct email or by telephone to the relevant ASIC teams to communicate issues and queries about markets, trading and participant conduct. For contact details see RG 266.42–RG 266.46. See Table 3 for a list of email addresses you can use to contact ASIC about different market- and participant-related matters.
- RG 266.7 In Table 2 we have listed some of the information which must be provided to ASIC under the market integrity rules.

Scope of this regulatory guide

- RG 266.8 This regulatory guide provides guidance for market participants on the ASIC Market Integrity Rules (Futures Markets) 2017 and ASIC Market Integrity Rules (Futures Markets – Capital) 2017.

Note 1: In this guide, ‘Futures Markets Rules’ refers to the ASIC Market Integrity Rules (Futures Markets) 2017. The Futures Markets Rules replaced the ASIC Market Integrity Rules (ASX 24 Market) 2010, the ASIC Market Integrity Rules (FEX Market) 2013 and ASIC Market Integrity Rules (Competition in Exchange Markets) 2011. The Futures Markets Rules can be downloaded from the [Federal Register of Legislation](#).

Note 2: In this guide, ‘Futures Capital Rules’ refers to the ASIC Market Integrity Rules (Futures Markets – Capital) 2017. The Futures Capital Rules replaced the ASIC Market Integrity Rules (ASX 24 Market-Capital) 2014 and the ASIC Market Integrity Rules (FEX Market-Capital) 2014. The Futures Capital Rules can be downloaded from the [Federal Register of Legislation](#).

Note 3: Guidance on the ASIC Market Integrity Rules (Securities Markets) 2017 for market participants can be found in [Regulatory Guide 265](#) *Guidance on ASIC market integrity rules for participants of securities markets* (RG 265).

- RG 266.9 The guide also explains how we expect participants to comply with requirements about:
- (a) risk management;
 - (b) supervisory policies and procedures;
 - (c) minimum presence requirements for foreign participants;
 - (d) crossing systems;
 - (e) suspicious activity reporting;
 - (f) client detail record keeping; and
 - (g) capital requirements.

- RG 266.10 This guide does not cover the operating rules of market operators or clearing and settlement (CS) facility operators.

Related guidance

- RG 266.11 Table 1 identifies other regulatory guides that may be relevant to market participants.

Note: Guidance on various obligations under the Futures Markets Rules that apply to market operators can be found in [Regulatory Guide 172](#) *Financial markets: Domestic and overseas operators* (RG 172).

Table 1: Related guidance

Topic	ASIC regulatory guide
Our guidance for participants of securities markets subject to the Securities Markets Rules	Regulatory Guide 265 <i>Guidance on ASIC market integrity rules for participants of securities markets</i> (RG 265)
The disciplinary process for alleged breaches of ASIC market integrity rules (including the Futures Markets Rules)	Regulatory Guide 216 <i>Markets Disciplinary Panel</i> (RG 216)
The operational framework for the Markets Disciplinary Panel when considering alleged breaches of ASIC market integrity rules	Regulatory Guide 225 <i>Markets Disciplinary Panel practices and procedures</i> (RG 225)
Notifying ASIC of significant breaches (or likely breaches) by Australian financial services (AFS) licensees under s912D	Regulatory Guide 78 <i>Breach reporting by AFS licensees</i> (RG 78)
Our approach to supervising compliance with AFS licensing obligations	Regulatory Guide 104 <i>Licensing: Meeting the general obligations</i> (RG 104) and Regulatory Guide 105 <i>Licensing: Organisational competence</i> (RG 105)

B Supervision of trading on domestic licensed financial markets

Key points

We are responsible for supervising trading on Australian domestic licensed financial markets.

We take a risk-based approach to surveillance of compliance with the market integrity rules and market participants' obligations under the Corporations Act.

ASIC's supervisory responsibilities

RG 266.12 We are responsible for supervising market participants, market operators and other prescribed entities for compliance with the market integrity rules. This is in addition to our role in supervising compliance by market participants with the market misconduct provisions of the Corporations Act (e.g. the prohibitions against insider trading, market manipulation and making false and misleading statements) and with the general obligations of AFS licensees.

Note 1: For our approach to supervising compliance with the general obligations of AFS licensees under s912A of the Corporations Act, see RG 104 and RG 105.

Note 2: Guidance on market operators' obligations under the Securities Markets Rules can be found in RG 172.

Note 3: Our supervisory responsibilities do not extend to foreign-based markets that are licensed to operate in Australia under s795B(2) or to financial markets that are exempt from being licensed.

Supervision of compliance with market integrity rules

RG 266.13 We take a risk-based approach to surveillance of compliance with the market integrity rules and market participants' obligations under the Corporations Act. In doing so, we consider the *Objectives and principles of securities regulation* set out by the International Organization of Securities Commissions (IOSCO).

Note: IOSCO, [Objectives and principles of securities regulation](#) (PDF 187 KB), report, 10 June 2010.

RG 266.14 We perform risk assessments of participants and, where necessary, conduct targeted surveillance of suspected misconduct.

RG 266.15 We are responsible for any investigation and action in relation to an alleged breach of the market integrity rules.

SFE procedures, determinations and practice notes

RG 266.16 In assessing a market participant's compliance with the market integrity rules, we will seek to follow relevant published interpretation as contained in old Sydney Futures Exchange (SFE) procedures, determinations and practice notes. The old SFE procedures, determinations and practice notes that remain relevant are listed in the appendix.

RG 266.17 In some instances, we have incorporated content from the SFE procedures, determinations and practice notes into the ASIC market integrity rules.

Market surveillance

RG 266.18 To promote market integrity, we monitor on-market trading activity, including activity in relation to futures market contracts, through a variety of computerised systems.

RG 266.19 Our Market Surveillance team makes inquiries of market operators, participants, listed entities, clients and others, using compulsory powers where necessary.

Disciplinary process

RG 266.20 The disciplinary process for breaches of the market integrity rules is contained in RG 216. The Markets Disciplinary Panel (MDP) exercises ASIC's power to issue infringement notices and accept enforceable undertakings relating to breaches of the market integrity rules. RG 216 provides guidance on the processes by which matters will be referred to, and dealt with by, the MDP.

How ASIC works together with market licensees

RG 266.21 Australian market licensees are responsible for the operation of their markets and are required to set operating rules for their markets. These operating rules govern how trading can take place on the market and may, where relevant, deal with entities trading on the market's official list. Market licensees are responsible for monitoring and enforcing compliance with their operating rules.

Note: Guidance on market licensee obligations under the Corporations Act and, for domestic licensees, under the Securities Markets Rules and Futures Markets Rules, can be found in RG 172.

RG 266.22 ASIC and market licensees conduct site visits of market participants and, where appropriate, share information on supervisory practices.

Status of notifications, consents, waivers, etc., given before 1 August 2010

RG 266.23 Unless ASIC determines that it should be amended or revoked, any written:

- (a) waiver, exemption, consent, recognition, accreditation, approval, determination or notification given by a market operator to a participant under the operating rules of a market, where those rules are incorporated into the market integrity rules; and
- (b) notification or certification given by market participants to market operators under the operating rules of a market, where those rules are incorporated into the market integrity rules,

is grandfathered and taken to be given by ASIC so as to continue in its existing form, and continue to have the same effect as given under the operating rules: reg 10.15.04 of the Corporations Regulations 2001 (Corporations Regulations).

Note: Rule 1.6.1 of the Futures Markets Rules provides additional transitional arrangements to ensure the continuity of the status of notifications and certifications given by a market participant to ASIC in accordance with the market integrity rules in force immediately prior to 7 May 2018.

C ASIC market integrity rules

Key points

The market integrity rules are made by ASIC and apply to market operators, market participants, other prescribed entities and financial products traded on a licensed market.

We will consult on future amendments to the market integrity rules as required.

We are responsible for supervising compliance with the market integrity rules. We are also responsible for granting waivers from the obligation to comply with a provision of the market integrity rules.

ASIC market integrity rules

- RG 266.24 We are able to make market integrity rules under Pt 7.2A of the Corporations Act dealing with the activities or conduct of:
- (a) licensed markets;
 - (b) persons in relation to licensed markets; and
 - (c) persons in relation to financial products traded on licensed markets.

- RG 266.25 The market integrity rules are legislative instruments and are subject to parliamentary scrutiny and possible disallowance by Parliament.

Ministerial consent to market integrity rules

- RG 266.26 We may not make a market integrity rule unless we have the written consent of the Minister. An exception applies for making emergency rules that are necessary, or are in the public interest, to protect people dealing in a financial product.

Future review and amendment to the market integrity rules

- RG 266.27 We will review the market integrity rules from time to time to make any adjustments required as a result of our experience in administering the rules; developments in the market and the international regulatory environment; and feedback from market operators, participants and clients.
- RG 266.28 We expect to consult on any future amendment of these rules.

Waivers

Power to grant a waiver of a market integrity rule

RG 266.29 We are able to grant waivers from the obligation to comply with a provision of the market integrity rules.

RG 266.30 Any such waiver may be general, or limited to a particular case or category, and may be limited by such conditions as we think fit. If conditions are imposed on a waiver, all of the conditions must be complied with for the waiver to be effective. Failure to comply with a condition imposed on a waiver is a contravention of Rule 1.2.2. Further, failure to comply with a condition on a waiver may amount to a possible breach of the relevant market integrity rule waived.

Note: In this guide, 'Chapter 4', 'Part 4.2' and 'Rule 4.2.1' (for example) refer to a chapter, part or rule (respectively) of the Futures Markets Rules, unless otherwise specified.

RG 266.31 We may withdraw a waiver at any time. The waiver will cease to be effective from the time it is expressed to be withdrawn in writing. We will not grant a waiver retrospectively.

Approach to considering a market integrity rule waiver

RG 266.32 We will consider and determine all requests for a waiver of a market integrity rule on the basis of the facts, circumstances and merits of each request. In determining whether such a request should be granted, we will take into account commercial considerations against the need to maintain the integrity of the market.

RG 266.33 Where appropriate, we may grant a waiver to a class of persons.

The process of requesting a waiver

RG 266.34 Any request for a waiver must be in writing. It should also include details of the market integrity rule to be waived, the person or class of persons seeking the waiver, the requested start date and duration of the waiver, the rationale for the waiver, all relevant facts and circumstances in support of the request, and any other relevant information.

RG 266.35 Market participants may be refused a request if they fail to address all of the relevant issues. Similarly, failure to supply relevant information may cause a delay in finalising the request.

RG 266.36 Should a commercially time-sensitive situation arise, we can consider such requests on an urgent basis, providing the participant has clearly demonstrated that the urgency results from factors beyond their reasonable

control and that those factors could not reasonably have been foreseen. Self-imposed deadlines will not be a sufficient basis for urgent consideration.

- RG 266.37 Applications for waivers should be made in writing and emailed to:
Senior Executive Leader, Market Supervision, ASIC
market.participants@asic.gov.au.

Publication of waivers

- RG 266.38 We may publish notice of a waiver on our website. We maintain a public [register of waivers](#) on our website that contains details of:
- (a) the date a waiver takes effect;
 - (b) the person or class of persons relieved from the obligation in the market integrity rule;
 - (c) the provision of the market integrity rule to which the waiver applies;
 - (d) brief reasons for the waiver; and
 - (e) any conditions that apply to the waiver.

D Communicating with ASIC

Key points

Market participants can contact ASIC directly to ensure that market integrity matters are known and addressed in an efficient and timely manner.

Contact points include MECS, direct email and telephone access to the relevant ASIC teams to communicate issues and queries about markets, trading and participant conduct.

Breaches of the market integrity rules or provisions of the Corporations Act should be reported in accordance with the breach reporting procedures set out in RG 78.

Forms

- RG 266.39 Details about the type of information that is required to be submitted to ASIC in writing are contained in the market integrity rules. These rules do not prescribe forms or a format in which to submit this information.
- RG 266.40 Market participants may use the forms available on [MECS](#) to submit certain information to us as required under the market integrity rules. We will also accept information by any reasonable means, including by email to market.participants@asic.gov.au.
- RG 266.41 Table 2 lists some of the matters market participants will need to notify ASIC about. Note that this list is not exhaustive.

Table 2: What market participants must notify ASIC about

All market participants	Significant breaches (s912D)
Futures markets participants	Trust account reconciliation breaches (Part 2.3) Crossing systems and suspicious activity reports (Chapter 5) Investigations into participants (Part 2.1)

Contacting ASIC

- RG 266.42 The market integrity rules require market participants to provide ASIC with information and other notifications in certain circumstances. Information should be provided in the manner detailed in the relevant market integrity rule.

Written applications and requests

- RG 266.43 Requests and applications can be made to ASIC using the relevant form on [MECS](#). Alternatively, these can be submitted by email to market.participants@asic.gov.au with the subject line ‘Attention: Senior Executive Leader, Market Supervision, ASIC’.

MECS

- RG 266.44 Market participants can submit a range of applications and notifications using the forms available on [MECS](#). Where a form is available on MECS, participants should use MECS to make the application or notification.

Telephone hotline

- RG 266.45 Market participants can directly contact the relevant ASIC teams by calling our telephone hotline on 1300 029 454 between 9 am and 5 pm Eastern Standard Time on market trading days. The hotline is for communicating with ASIC about live markets trading issues, non-live markets queries, general participant queries, notifications and exemptions. Participants can also call ASIC’s Infoline on 1300 300 630.

Email

- RG 266.46 There are four email addresses set up for use by market participants for market- and participant-related matters: see Table 3 for details.

Table 3: ASIC email addresses for use by market participants

Email address	To be used for:	Examples of information, applications and notifications
fsr.breach.reporting@asic.gov.au	Significant breaches under s912D of the Corporations Act	Significant breaches (or likely breaches) of market integrity rules must be reported to ASIC. Further guidance is given in RG 78
markets@asic.gov.au	Matters relating to markets and trading	Concerns or queries about trading anomalies Queries about unexplained market events Reports of suspicious market trades or behaviour Concerns about misconduct in the market
market.participants@asic.gov.au	Participant-related matters	Applications, including waiver applications Notifications to ASIC required under the market integrity rules relating to the participant’s business Any other information relating to the participant

Email address	To be used for:	Examples of information, applications and notifications
crossing.systems@asic.gov.au	Reports about crossing systems	Notifications, including: <ul style="list-style-type: none"> • intention to operate a crossing system; • monthly reporting on trading activity and system changes; and • public disclosure about crossing system operations • notification of a failure to perform daily reconciliations of client money in accordance with Rule 2.3.2 (if not reportable as a significant breach under s912D of the Corporations Act)

When to contact ASIC

- RG 266.47 As stated above, we are responsible for supervising trading activities by market participants to ensure market integrity. As such, we can be contacted about conduct and activities that occur on domestic licensed financial markets.
- RG 266.48 Australian market licensees retain responsibility for the operation of their markets. Queries about the operations and processes of markets should be directed to the relevant market operator.
- RG 266.49 In general terms, if your issue relates to an obligation or conduct covered by the market integrity rules or provisions of the Corporations Act, you should contact ASIC. The following examples indicate the sorts of matters that might arise and who to contact.

Example 1: Expiry of a futures contract

Participant A has a trading-related query about the expiry of a futures market contract.

- Where the query is about the delivery or process of the futures market contract, Participant A should contact the operator of the market on which the futures market contract is traded.
- Where the query is about possible manipulation in relation to the futures market contract or market misconduct, Participant A should contact ASIC.

Example 2: Crossings

Participant A has a trading-related query about conducting crossings.

- Participant A should contact the relevant market operator to confirm what products, times and procedures apply as this is an operational issue.

- Where the query is about the interpretation of specific Futures Markets Rules (e.g. rules relating to wash trading, pre-negotiation or block trades), Participant A should contact ASIC.

Example 3: Market manipulation

Participant A has a trading-related query about possible market manipulation by one of their clients.

- Participant A should contact ASIC.

Example 4: Trade cancellations

Participant A has a trading-related query about trade cancellations.

- Participant A should contact the relevant market operator.

Significant breach reporting to ASIC

RG 266.50 Breaches (or likely breaches) of market integrity rules may constitute reportable breaches for AFS licensees under s912D. If certain breaches of the market integrity rules are required to be reported under s912D, they need to be reported to ASIC. The process for reporting breaches to ASIC under s912D and reporting significant breaches of market integrity rules to ASIC is the same.

RG 266.51 Guidance on how to notify ASIC of significant breaches (or likely breaches) by AFS licensees under s912D is set out in RG 78. Written breach reports should be emailed to fsr.breach.reporting@asic.gov.au.

Note: See RG 78 for further guidance on the process for reporting significant breaches to ASIC, and how we deal with notifications.

E Risk management

Key points

Market participants must meet certain risk management requirements for their house accounts, including setting and documenting appropriate limits, and requirements relating to terminal connections.

Risk management requirements for market participants

RG 266.52 Market participants that are principal traders have not traditionally accessed futures markets directly and, in those cases, their order and position limits have been set by the market participant that provides them with access to the market. This is because the market participant that provides the principal trader with access to the market must meet certain risk management obligations (including setting order and position limits) for the principal trader as its client: Rule 2.2.1.

RG 266.53 There are now an increasing number of principal traders accessing futures markets directly, rather than as clients of another market participant. There has also been an increase in automation and innovation in electronic trading more generally, including proprietary trading.

Note: A principal trader is a market participant that trades only on its own behalf.

RG 266.54 To deal with these changes occurring in market structure and the electronic market environment, Rule 2.2.1 requires all market participants that execute trades on behalf of a house account on a futures market to meet certain risk management requirements: see Table 4.

Note: The term 'house account' is defined in Rule 1.4.3.

Table 4: Risk management—House account requirements

Requirement	Description
Order and/or position limits	<p>A market participant must demonstrate prudent risk management procedures by setting and documenting appropriate predetermined order and/or position limits on each of its house accounts, including a volume per order limit, an aggregate loss limit and an aggregate net session limit</p> <p>These limits must be:</p> <ul style="list-style-type: none"> • based on the market participant's analysis of its financial resources or other relevant factors; and • input into trading platform account maintenance by the market participant's risk manager

Requirement	Description
Maximum price change limits	<p>A market participant must set and document maximum price change limits in relation to house accounts</p> <p>These limits must be input into trading platform account maintenance by the market participant's risk manager</p>
System requirements	<p>A market participant's order system for execution of trades on the house account must have the capability for:</p> <ul style="list-style-type: none"> • setting limits; and • rejecting orders that are in excess of the limits set
Amendment of limits	<p>A market participant may amend the predetermined order and/or position limits based on its analysis of financial resources or other relevant factors for house accounts</p>
Terminal connections	<p>Where a market participant has connected to a terminal for the purposes of allowing trading for a house account, it:</p> <ul style="list-style-type: none"> • is responsible under the rules for any orders entered through the terminal on behalf of the house account; and • must promptly take all steps necessary to terminate such a connection when notified to do so by ASIC
Accessing terminal connections	<p>Before connecting to a terminal for the purposes of allowing trading for a house account, and at all times while so connected, a market participant must:</p> <ul style="list-style-type: none"> • have the necessary skills, facilities and procedures to operate such a facility; • understand the risks and obligations attached to the use of such a facility; • ensure that each order so placed, and any order system, complies with the rules; • provide appropriate controls on access to passwords of the market participant and its employees to such systems; and • ensure appropriate controls are implemented for the security of its premises and physical access of the market participant and its employees to such systems

Note: ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/313 provides a conditional waiver from the aggregate loss limit requirement in specified circumstances.

Setting and documenting limits

RG 266.55 A market participant must demonstrate prudent risk management procedures. This includes, but is not limited to, setting and documenting:

- (a) appropriate predetermined order and/or position limits on each of its house accounts, including a volume per order limit, an aggregate loss limit and an aggregate net session limit, based on the market participant's analysis of its financial resources or other relevant factors; and
- (b) maximum price change limits (Rules 2.2.1(1)(ab) and (b)).

Note: ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/313 provides a conditional waiver from the aggregate loss limit requirement in specified circumstances.

- RG 266.56 The limits determined in Rules 2.2.1(1)(a), (ab) and (b) must be input by a market participant's risk manager into trading platform account maintenance and will be established as preset accounts: Rule 2.2.1(1)(c). The 'risk manager' is the person responsible for managing risks within the market participant's business, and their role and responsibilities will depend on the nature, scale and complexity of the market participant's business.
- RG 266.57 A market participant may amend the predetermined order and position limits referred to in Rules 2.2.1(1)(ab) and (b) based on its analysis of financial resources or other relevant factors: Rule 2.2.1(e).
- RG 266.58 In addition to the limits referred to in Rules 2.2.1(1)(ab) and (b), a market participant's order system for execution of trades on the house account must also have the capability for:
- (a) setting limits that reflect prudent account risk management; and
 - (b) rejecting orders that are in excess of limits set by the market participant (Rule 2.2.1(1)(d)).

Principal traders

- RG 266.59 A principal trader is a market participant that trades only on its own behalf. The principal trader is either:
- (a) a client of another market participant on a futures market where that other market participant permits the principal trader to connect to a terminal. The principal trader's orders are routed directly through the terminal onto the trading platform and are subject to the terminal's risk management system, but will usually bypass the market participant's order system (see RG 266.63–RG 266.65 and Figure 1);
 - (b) a client of another market participant on a futures market where the principal trader's orders are subject to the market participant's order system and the terminal's risk management system (see RG 266.66–RG 266.68 and Figure 2); or
 - (c) granted trading permission by ASX and given its own terminal (see RG 266.69–RG 266.72 and Figure 3).

Note: A 'terminal' (sometimes referred to as a 'gateway') is defined under Rule 1.4.3 as an automated order entry interface through which an order system routes orders to the trading platform of a market. An 'order system' is the software application for entering orders into the trading platform through a terminal.

- RG 266.60 In each of these scenarios, the principal trader has an obligation under Rule 2.2.1(1) to demonstrate prudent risk management procedures. This includes, but is not limited to, ensuring that the principal trader's order

system has the capability for setting limits that reflect prudent account risk management, and for rejecting orders that are in excess of those limits.

RG 266.61 However, when a principal trader engages in trading as set out in RG 266.59(a)–RG 266.59(b), the principal trader does not access the market directly and may not have the capability to set, document and input into trading platform account maintenance predetermined order or position limits on its house account. We have therefore granted ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/312 (under Rule 1.2.1) for principal traders that engage in trading as set out in RG 266.59(a)–RG 266.59(b). This waiver relieves these principal traders from the obligation to comply with Rules 2.2.1(1)(ab), (b), (c) and (e).

Note: [ASIC Class Rule Waiver \[CW 13/972\]](#) provided a similar waiver to principal traders prior to the issue of ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/312.

RG 266.62 In these circumstances, the market participant that provides the principal trader with access to the market has obligations under Rule 2.2.1 to:

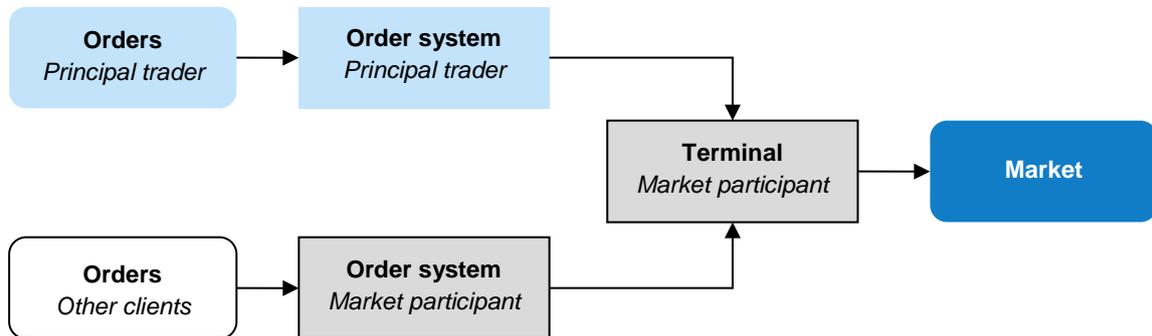
- (a) set and document appropriate predetermined order and/or position limits on each of its client accounts (including its client account for the principal trader) (Rule 2.2.1(1)(a));
- (b) set and document maximum price change limits (Rule 2.2.1(1)(b)); and
- (c) input the limits referred to in (a) and (b) above into trading platform account maintenance for each of its client accounts (including its client account for the principal trader) (Rule 2.2.1(1)(c)).

Client of a market participant—Orders bypass market participant’s order system

RG 266.63 When a principal trader engages in trading as set out in RG 266.59(a) and Figure 1, the market participant responsible for access to the terminal has an obligation under Rule 2.2.1(1)(a) to set and document predetermined limits for the principal trader as its client, and an obligation under Rule 2.2.1(1)(b) to set and document maximum price change limits. The principal trader may rely on the relief in ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/312.

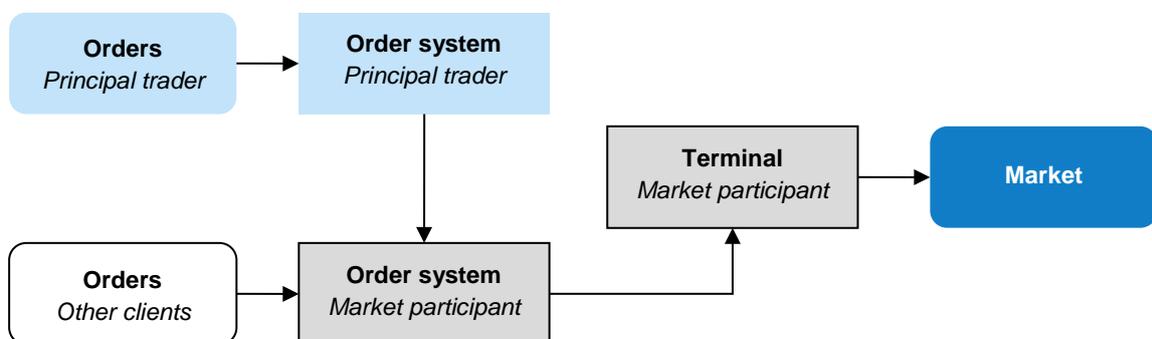
RG 266.64 The principal trader may set tighter and/or differing limits within its own order system at an individual trader or group level.

RG 266.65 The principal trader must document the limits that it has set in its own order system. The principal trader must ensure its order system complies with Rules 2.2.1(1)(d) and (f).

Figure 1: Principal trader's orders bypass market participant's order system

Client of a market participant—Orders subject to market participant's order system

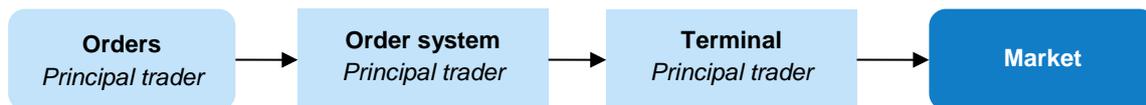
- RG 266.66 When a principal trader engages in trading as set out in RG 266.59(b) and Figure 2, the market participant responsible for access to the terminal has an obligation under Rule 2.2.1(1)(a) to set and document predetermined limits for the principal trader as its client, and an obligation under Rule 2.2.1(1)(b) to set and document maximum price change limits. The principal trader may rely on the relief in ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/312.
- RG 266.67 The principal trader's orders will also be subject to the limits set by the market participant in the market participant's order system. The principal trader may set tighter and/or differing limits within its own order system at an individual trader or group level.
- RG 266.68 The principal trader must document the limits that the principal trader has set in its own order system. The principal trader must ensure that its order system complies with Rules 2.2.1(1)(d) and (f).

Figure 2: Principal trader's orders are subject to market participant's order system

Granted trading permission by the market operator

- RG 266.69 When a principal trader engages in trading as set out in RG 266.59(c) and Figure 3, the principal trader has direct access to the risk management tools that are provided as part of the software associated with the terminal.
- RG 266.70 The principal trader has an obligation under Rule 2.2.1(1)(ab) to set and document predetermined limits for each of its house accounts, and an obligation under Rule 2.2.1(1)(b) to set and document maximum price change limits.
- RG 266.71 The principal trader may also set tighter and/or differing limits within its own order system at an individual trader or group level.
- RG 266.72 The principal trader must document the limits it has set in its order system. The principal trader must ensure its order system complies with Rules 2.2.1(1)(d) and (f).

Figure 3: Principal trader granted trading permission by a market operator



Terminal connections

- RG 266.73 Any market participant, including a principal trader, who has connected to a terminal for the purposes of trading will be responsible under the Futures Markets Rules for any orders entered through the terminal: Rules 2.2.1(2)(a) and (ab).
- RG 266.74 We may give notice to a market participant requiring it to terminate a connection referred to in RG 266.73. As soon as a market participant receives notification, it must promptly take all steps necessary to terminate the connection: Rules 2.2.1(2)(b) and (c).

Filters and filter parameters

- RG 266.75 As a market participant that has connected to a terminal is responsible for all orders entered through the terminal and must ensure those orders and the order system comply with the Futures Markets Rules (Rules 2.2.1(2)(a) and (ab) and Rule 2.2.1(4)(c)), we expect the market participant to apply appropriate filters and filter parameters to its order system.

- RG 266.76 What constitutes ‘appropriate’ will depend on the market participant’s order system capabilities; the nature, scale and complexity of its business; and the particular risks that the market participant has assessed as relevant to that business (including financial, reputational and regulatory risks).
- RG 266.77 Filters and filter parameters are pre-trade controls and the principal means by which trading messages are checked to ensure they comply with the rules. Filters are a set of rules that apply to an order system and determine automatically which trading messages (or series of related trading messages) meet a predefined set of criteria and can pass into the trading platform.
- RG 266.78 Filter parameters are the variables within each filter that can be changed to modify the operation of the filter without changing the rule to which the filter applies. The filter parameters result in trading messages being handled differently according to factors such as the type, source, size or price of an order, or its relationship with other orders. A filter parameter may apply at a number of different levels—for example, to particular financial products, representatives, authorised persons or clients, and to a dollar or margin value level.

Accessing terminal connections

- RG 266.79 A market participant that connects to a terminal for the purposes of trading must, before connecting to the terminal and at all times while connected:
- (a) have the necessary skills, facilities and procedures to operate such a facility (Rule 2.2.1(4)(a));
 - (b) understand the risk and obligations attached to the use of such a facility (Rule 2.2.1(4)(b));
 - (c) ensure that each order placed through the terminal, and any order system, complies with the Futures Markets Rules (Rule 2.2.1(4)(c));
 - (d) provide appropriate controls (such as passwords) on any access by the market participant and its employees to such systems (Rule 2.2.1(4)(d)); and
 - (e) ensure appropriate controls are implemented for the security of its premises and physical access by the market participant and its employees to such systems (Rule 2.2.1(4)(e)).
- RG 266.80 We recognise that, given the differences in types of businesses conducted by market participants, there must be some degree of flexibility in determining what constitutes ‘appropriate’ controls for each market participant for the purposes of Rules 2.2.1(4)(d) and (e). The types of controls that a market participant must implement will depend on the nature, scale and complexity of its business, and the particular risks that the market participant has assessed as relevant to that business (including financial, reputational and regulatory risks).

Example: Risk management for internet-based order systems

XYZ Pty Ltd is a market participant that uses an internet-based order system to allow either clients or their principal traders to enter orders through a terminal into the trading platform. Each client or principal trader is granted remote access to the order system, allowing them to enter orders through the terminal 24 hours a day from their home computer or any other computer.

XYZ Pty Ltd must ensure that its order system and remote access to the system is subject to appropriate security measures such as passwords, firewalls and other security-related software.

XYZ Pty Ltd must also ensure that appropriate controls are implemented for the security of its premises and physical access of the market participants and its clients or principal traders to the order system. We would expect XYZ Pty Ltd to have appropriate policies and procedures in place outlining its security expectations for those who may be placing orders from locations other than the market participant's business premises.

F Trust account reconciliation reporting

Key points

Market participants are required to notify ASIC in writing of matters concerning client money reconciliations.

Trust account reconciliation reporting

RG 266.81 All market participants holding client money (both clearing and non-clearing participants) must complete daily and monthly reconciliations of client money: Rules 2.3.2 and 2.3.3.

Daily reconciliation of client money

RG 266.82 Daily reconciliations are an essential part of a market participant's compliance processes for protecting client money. In an insolvency situation, client money can be at risk if it is not properly segregated or accounted for.

RG 266.83 Rule 2.3.4 requires a market participant to notify ASIC, in writing, within two business days if:

- (a) a trust account reconciliation has not been performed in accordance with Rule 2.3.2;
- (b) the reconciliation found the total deposits to be less than total third-party client money; or
- (c) the market participant is unable to reconcile its clients' segregated accounts under Rule 2.3.2.

RG 266.84 If the matter is a significant breach of the Futures Markets Rules, the notification should be emailed to fsr.breach.reporting@asic.gov.au: see RG 266.50–RG 266.51.

RG 266.85 If the matter is not reportable as a significant breach, the notification should be emailed to market.participant@asic.gov.au.

Monthly reconciliation of client money

RG 266.86 All market participants holding client money (both clearing and non-clearing participants) must lodge a monthly reconciliation of client money with ASIC within one month after the end of each month: Rule 2.3.3. The monthly reconciliation should be emailed to market.participant@asic.gov.au.

G Capital requirements

Key points

The market integrity rules for capital and reporting do not apply to market participants who are clearing participants or principal traders.

A participant of the ASX 24 market may continue to lodge capital returns using an electronic returns lodgement portal maintained by a market operator.

Scope, application and waivers

RG 266.87 This section provides guidance on the Futures Capital Rules.

Note: In this guide, 'Futures Capital Rules' refers to ASIC Market Integrity Rules (Futures Markets – Capital) 2017. 'Securities Capital Rules' refers to ASIC Market Integrity Rules (Securities Markets – Capital) 2017. Guidance on the Securities Capital Rules can be found in RG 265.

RG 266.88 The Futures Capital Rules set out the capital and reporting requirements for participants of futures markets. The market integrity rules for capital and reporting do not apply to market participants who are clearing participants or principal traders. A clearing participant must comply with the CS facility's capital and reporting requirements.

Note: In November 2017, ASIC made the Futures Capital Rules. The Futures Capital Rules replaced ASIC Market Integrity Rules (ASX 24 Market-Capital) 2014 and ASIC Market Integrity Rules (FEX Market-Capital) 2014.

Lodging forms and returns

RG 266.89 A market participant may lodge capital returns using an electronic returns lodgement portal maintained by a market operator: Rule 6.2.1(8) of the Futures Capital Rules. We intend to reassess this process at a future date and will consult with market participants at that stage.

RG 266.90 Where the Futures Capital Rules allow a market participant to lodge capital forms or returns directly with ASIC, or the market participant is not able to lodge the forms using an electronic returns lodgement portal, the participant may submit the forms via [MECS](#) or email them to market.participants@asic.gov.au.

RG 266.91 Market participants that belong to multiple futures markets (e.g. participants of both the ASX 24 market and the FEX market) only need to lodge one return with one of the markets. We would generally expect a participant of the ASX 24 market and the FEX market to lodge the return electronically with ASX Group.

H Supervisory policies and procedures

Key points

Market participants must have appropriate supervisory policies and procedures in place to ensure compliance with the Futures Markets Rules, operating rules and Corporations Act.

Supervisory policies and procedures should be in writing and tailored to the nature, size and complexity of the market participant's business.

- RG 266.92 Rule 2.2.8 requires a market participant to have appropriate supervisory policies and procedures to ensure compliance by the market participant, and each person involved in its business as a market participant, with the Futures Markets Rules, operating rules and the Corporations Act.
- RG 266.93 A distinction can be drawn between compliance procedures and supervisory procedures. Compliance procedures generally cover the applicable rules and policies and describe prohibited practices. Supervisory procedures document the supervisory system that has been established to ensure that the compliance procedures are being followed, and to prevent and detect prohibited practices.
- RG 266.94 We expect a market participant to be able to demonstrate that it has established, maintained and continues to enforce supervisory policies and procedures that are tailored to the nature, size and complexity of its business. A market participant should also undertake periodic reassessment of its supervisory policies and procedures in light of changes to its business.
- RG 266.95 We expect a market participant's supervisory policies and procedures to be in writing and to be designed to reasonably supervise the business and each person involved in the business.
- RG 266.96 We also expect a market participant to maintain evidence that supervisory policies and procedures have been implemented and carried out, and make this available to ASIC on request. A market participant should be able to demonstrate that it has allocated sufficient personnel and system resources to implement the supervisory policies and procedures.

I Foreign participants: Minimum presence requirements

Key points

To facilitate enforcement action against foreign market participants on the futures markets that do not hold an AFS licence, Part 2.4 of the Futures Markets Rules imposes minimum presence requirements on those foreign market participants.

- RG 266.97 Under the Corporations Act, market participants must comply with the market integrity rules that apply to the market(s) on which they trade. This includes foreign market participants—that is, those participants that are foreign entities and are not required to hold an AFS licence.
- RG 266.98 Part 2.4 of the Futures Markets Rules imposes minimum presence requirements on foreign market participants of futures markets if those foreign market participants do not hold an AFS licence. This is to facilitate enforcement action in Australia for breaches by foreign market participants of the relevant market integrity rules, the *Australian Securities and Investments Commission Act 2001* (ASIC Act), the Corporations Act more broadly, the *Corporations (Fees) Act 2001*, the *ASIC Supervisory Cost Recovery Levy Act 2017* and the *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017*.
- RG 266.99 Our ability to take effective enforcement action is fundamental to the supervision of financial markets and ensuring that markets are fair and efficient. The Corporations Act already facilitates enforcement actions against those market participants that are foreign entities that hold an AFS licence.
- RG 266.100 To facilitate enforcement action in Australia, a foreign market participant of a futures market must execute and lodge with ASIC a deed that contains certain provisions. This deed is for the benefit of, and is enforceable by, ASIC (and other persons referred to in s659B(1) of the Corporations Act) and continues to apply even if the foreign market participant has ceased to be a market participant of a futures market in Australia.
- RG 266.101 The deed must be irrevocable (except with the prior written consent of ASIC) and provide that the foreign market participant will:
- (a) submit to the non-exclusive jurisdiction of the Australian courts in legal proceedings (whether brought in the name of ASIC or the Crown or otherwise) that are conducted:
 - (i) by ASIC (including under s50 of the ASIC Act); and

- (ii) for proceedings relating to a financial services law, by any entity referred to in s659B(1);

Note: The entities referred to in s659B(1) (which permits certain entities to commence court proceedings relating to a takeover bid or a proposed takeover bid) are certain Commonwealth, state and territory entities. We have referred to 's659B(1) entities' here and in the Futures Markets Rules, rather than replicating the s659B(1) list of entities.

- (b) comply with any order of an Australian court for any matter relating to the activities or conduct of the foreign market participant in relation to the relevant futures market, or in relation to financial products traded on the relevant futures market, including but not limited to any matter relating to its obligations under the:
 - (i) ASIC Act;
 - (ii) Corporations Act;
 - (iii) *Corporations (Fees) Act 2001*;
 - (iv) *ASIC Supervisory Cost Recovery Levy Act 2017*; and
 - (v) *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017*;
- (c) if the foreign market participant is not registered under Div 2 of Pt 5B.2 of the Corporations Act, appoint a local agent (a natural person or a company) that is resident in this jurisdiction and authorised to accept service of process and notices on behalf of the foreign market participant;
- (d) notify ASIC of any change to the agent or the name and address of the agent (if the agent is a company, the address will be the registered office of the company);
- (e) accept service on the agent as service of process on the foreign market participant in relation to any legal proceedings conducted by ASIC, the Crown or otherwise;
- (f) ensure that the deed applies even if the foreign market participant ceases to be a market participant; and
- (g) comply with any additional terms notified by ASIC to the foreign market participant (Rule 2.4.1(2)).

RG 266.102 The original deed must be dated and it must be signed by a person authorised by the foreign market participant to do so on its behalf. If the foreign market participant is an unincorporated entity, the foreign market participant must provide an authority for the person to sign the deed.

J Crossing systems

Key points

A participant of the ASX 24 market that operates a crossing system for financial products able to be traded on that market must:

- make certain notifications to ASIC and users of the crossing system, and make information about the operation of the crossing system publicly available on a website;
- provide fair treatment to all users of a crossing system;
- monitor activity on the crossing system, report significant breaches of its user obligations and operating procedures to ASIC, and report suspicious activity to ASIC; and
- have controls to ensure the efficiency and integrity of the crossing system.

Scope and application

- RG 266.103 Chapter 5 of the Futures Markets Rules and this section of the guide apply to participants of the ASX 24 market that operate crossing systems (unless otherwise specified in the relevant rule).
- RG 266.104 A ‘crossing system’ is defined as any automated service provided by a market participant that matches or executes client orders with orders of:
- (a) the market participant;
 - (b) other clients of the market participant; or
 - (c) any other person whose orders access the automated service,
- otherwise than on an order book of a licensed market (Rule 1.4.3).
- RG 266.105 A full list of [crossing systems that are registered with ASIC](#) is available on our website.
- RG 266.106 The guidance in this section sets out our expectations in relation to crossing systems that are currently permitted to operate in the futures markets—for example, systems that automate mechanisms to facilitate pre-negotiated business orders under Part 3.3, block trades under Part 3.4 or exchange for physical transactions under Part 3.5. Some of the guidance in this section also anticipates the evolution of crossing systems in the futures markets.

Notifying ASIC of intention to operate a crossing system

RG 266.107 A market participant that operates, or proposes to operate, a crossing system must lodge a crossing system initial report with ASIC no later than 20 business days before beginning to operate the crossing system. Table 5 sets out the details required to be included in a crossing system initial report.

Table 5: Reporting requirements to be provided to ASIC about the nature of a crossing system

Matters	Rule 5.1.1 reporting requirement	Guidance on details of information
Date of commencement	The date on which the crossing system began operating, or will begin to operate, in this jurisdiction	No further guidance
Clients	Access to the crossing system, including the criteria for determining persons who are eligible to use the crossing system and whether the crossing system transmits orders to other crossing systems, or receives orders from other crossing systems	For example, retail clients, wholesale clients and buy-side only
Matching process	How orders are prioritised and matched, and transactions are executed or matched off-market, on the crossing system	For example, if the crossing of orders is done on price–time priority, size priority or some other basis
Price determination	How the price for transactions on the crossing system is determined	For example, at the midpoint of the best available bid and offer on the order books of licensed markets
Fee structure	The fees, commissions, rebates or other charges paid by or to the market participant and users of the crossing system	This includes incentives paid by or to the market participant and/or users of the crossing system
Principal trades	Whether the market participant that operates the crossing system deals as principal (e.g. house account) with clients on the crossing system and, if so, the arrangements the market participant has in place for the management of conflicts of interest that may arise between the market participant and those clients	This includes all dealings as principal ('principal' has an extended meaning under Rule 1.4.3)
Reporting to a licensed market	The name(s) of the market(s) to which transactions executed or matched off-market on the crossing system are reported Where more than one market is named, the circumstances in which each market is used for reporting transactions executed or matched off-market on the crossing system	For example, ASX 24

Matters	Rule 5.1.1 reporting requirement	Guidance on details of information
Life of an order	Whether orders on the crossing system are purged at the end of the day or remain on the crossing system until matching or execution on the crossing system next resumes. If the orders are not purged, the period of time they remain on the crossing system	No further guidance

- RG 266.108 Under Rules 5.2.1(4) and 5.2.2(4), crossing system operators are also required to give ASIC a copy of the disclosures they make about their crossing systems to the public and to their clients: see RG 266.112–RG 266.132 for further information about publicly available crossing system information and non-public crossing system information. The information in these disclosures to the public and to clients is more detailed than the information required to be lodged with ASIC in a crossing system initial report.
- RG 266.109 A crossing system operator may fulfil its obligation to lodge a crossing system initial report under Rule 5.1.1 by giving ASIC copies of the more detailed disclosures under Rules 5.2.1 and 5.2.2 no later than 20 business days before the crossing system commences operation.

Where to notify

Notification to ASIC

The notification to ASIC should be emailed to crossing.systems@asic.gov.au.

Monthly reporting to ASIC on trading activity and system changes

- RG 266.110 A crossing system operator that operates a crossing system must submit a monthly report to ASIC in certain circumstances: Rule 5.1.2. A monthly report must be submitted if there have been any changes during that calendar month to the information last provided to ASIC in the operator's crossing system monthly report or crossing system initial report: Rule 5.1.2(a).
- RG 266.111 Under Rule 5.1.2(b), the report must be prepared within 20 business days of the end of the calendar month and must be provided to ASIC as soon as practicable after it has been prepared.

Where to notify

Notification to ASIC

The notification to ASIC should be emailed to crossing.systems@asic.gov.au.

Public disclosure about crossing system operations

RG 266.112 Under Rule 5.2.1, a crossing system operator must make available on a publicly accessible website the information listed in columns 1 and 2 of Table 6. More detailed guidance about what we expect a crossing system operator to disclose is provided in column 3.

Table 6: Public disclosure requirements for crossing system operators

Type of information	Publicly available crossing system information	Guidance
Operator	The code identifying the crossing system	The full legal name of the crossing system operator should be identified in addition to a code that uniquely identifies the crossing system. We may publish on our website the codes assigned to and applicable to specific crossing systems
Start date	The date the crossing system began to operate in this jurisdiction	Where a crossing system has been decommissioned or replaced by another crossing system, the market participant should disclose the date the system originally commenced operating, the date it ceased operating and the date the new crossing system commenced operating
Products	The types of financial products traded on the crossing system	For example, equity index future, other futures market contracts
Access criteria	The criteria used to determine eligibility to use the crossing system	Crossing system operators should consider including: <ul style="list-style-type: none"> (a) the minimum requirements (e.g. technical capabilities) and the process for gaining access to the system; and (b) whether access arrangements for the crossing system are uniform across all users and, where they differ, provide details (e.g. whether some users are permitted to have direct access to the crossing system)

Making the information publicly available

RG 266.113 Rule 5.2.1(1) requires a crossing system operator to make the information available on a website that is publicly available and free to access.

RG 266.114 We expect the information to be made available on the crossing system operator's website using a constant, stable deep link where the web address does not change even when the information on the website changes.

Updating the information

RG 266.115 When a crossing system operator implements a change to the operation of the crossing system described in Table 6, it must update the website within one business day: Rule 5.2.1(3). We do not expect short-term 'pilot' changes

to be updated. However, when the final version is launched, the website should be updated within one business day.

- RG 266.116 Crossing system operators should ensure that it is made clear on the website when the information was last updated and what information has been changed by an update.

Notifying ASIC of the information and the website address

- RG 266.117 Rule 5.2.1(4) requires a crossing system operator to provide ASIC with a copy of the information that it has made publicly available and to provide ASIC with each update to the information within one business day of making the information available on its website. In fulfilling this requirement, we expect a crossing system operator to email ASIC with a description of the information that has been made available, together with a link to the web address where the information is published.
- RG 266.118 [Publicly available crossing system information](#) is also accessible via links on our website.

Where to notify

Notification to ASIC

The notification to ASIC should be emailed to crossing.systems@asic.gov.au.

Disclosure to crossing system clients

- RG 266.119 It is important that clients of a market participant that operates a crossing system understand the operating procedures of the crossing system. Rule 5.2.2 requires a crossing system operator to provide the following information to a client before accepting an order from them for the first time:
- (a) a copy of the publicly available crossing system information outlined in Table 6, or inform the client of the web address where the information is available (Rule 5.2.2(1)(a)); and
 - (b) the non-public crossing system information outlined in columns 1 and 2 of Table 7 (Rule 5.2.2(2)).

Note: A more detailed description of the non-public crossing system information we expect a crossing system operator to disclose to its clients is provided in column 3 of Table 7.

- RG 266.120 Each time a crossing system operator makes a change to the publicly available crossing system information or the non-public crossing system

information, it must inform each of its clients of the change before it accepts an order from the client: Rules 5.2.2(1)(b) and (3).

RG 266.121 We expect that the information provided by each crossing system operator should be standardised and consistent (i.e. not tailored for individual clients). However, it may differ for different groups of clients (e.g. wholesale and retail clients).

RG 266.122 A crossing system operator only needs to provide the information outlined in Table 7 to a client in relation to its own crossing system. We do not expect it to provide this information in relation to other crossing systems that a client's order may access.

Table 7: Non-public client disclosure requirements for crossing system operators

Type of information	Non-public crossing system information	Guidance
User obligations	A description of the obligations imposed on users of the crossing system by the operator of the crossing system	<p>Crossing system operators should consider including:</p> <ul style="list-style-type: none"> (a) how users are expected to access the crossing system and enter orders into the crossing system; (b) technical specifications users must comply with; (c) controls for maintaining the efficiency and integrity of the crossing system; and <p>Note: A crossing system operator has obligations under Rule 5.5.2 in relation to the efficiency and integrity of its crossing system.</p> <ul style="list-style-type: none"> (d) circumstances where access may be suspended or constrained (e.g. during a system failure) and any trading protocols or behavioural expectations when users access and use the crossing system
Order types	A description of the order types available to those who have access to the crossing system, including a description of the characteristics of each order type	<p>Crossing system operators should consider including:</p> <ul style="list-style-type: none"> (a) how the order types work, how price is determined for each order type and whether certain order types affect the order queue priority in the crossing system; (b) for each order type, whether it is available to all users who have access to the crossing system and, if not, the types of users that can use the order type and on what terms; and (c) whether the order type interacts with an exchange market or another crossing system (e.g. a shadowing arrangement)

Type of information	Non-public crossing system information	Guidance
Operations	<p>A description of the operation of the crossing system, including, but not limited to:</p> <ul style="list-style-type: none"> (a) how orders are managed, including how prices are determined and cancellations are managed; (b) details of any different treatment or arrangements for certain users or order types; (c) the circumstances in which principal orders may interact with other orders in the crossing system, and the nature of the principal orders (e.g. proprietary desk or market maker); (d) whether orders of related bodies corporate of the operator enter the system and, if so, how conflicts (arising because orders of related bodies corporate enter the crossing system) are managed; and (e) how any other conflicts of interest that may arise are managed 	<p>Crossing system operators should consider including:</p> <ul style="list-style-type: none"> (a) the hours of operation of the crossing system; (b) how orders are prioritised and matched on the crossing system (e.g. price–time priority or some other basis); (c) how order and trade cancellations are managed; (d) how a system outage is managed, including the execution venues an order may be routed to in the event of a system outage or system stress (see RG 266.133–RG 266.137); (e) attributes of orders that may be controlled by users (e.g. minimum order quantity, opting out of certain types of order flow such as principal flow or liquidity providers); (f) details of any different treatment or arrangements for certain users or order types. Where one or a group of users have access to certain features of a crossing system and others do not, the details should be included; (g) the circumstances in which principal (e.g. house account) orders (including orders of a related body corporate) may interact with other orders in the crossing system, and the nature of the principal orders (e.g. proprietary desk, market maker); (h) the arrangements for managing conflicts of interest that may arise in relation to the crossing system; (i) the licensed market(s) to which transactions are reported (i.e. ASX 24); (j) whether orders on the crossing system are purged at the end of the trading day or remain on the crossing system until matching or execution next resumes. If orders are not purged, the period of time they remain on the crossing system; and (k) how system failures are managed, including when users will be informed and how users' orders will be managed during system failures
Fees	<p>The fees imposed for orders to gain access to the crossing system, or to be matched or executed in the crossing system, and an indication whether those fees differ from (e.g. by being in addition to) the market participant's standard fees</p>	<p>Crossing system operators should consider including:</p> <ul style="list-style-type: none"> (a) disclosure of fees charged by a crossing system operator to allow another crossing system to gain access to the crossing system; (b) disclosure where there are different fees for different types of users (e.g. liquidity providers) and a description of how the different fee arrangements apply in relation to the type of use of the crossing system—we do not expect the actual fee to be disclosed; and (c) where there are no additional fees beyond standard commission, this should be disclosed <p>Where fees are part of a commission sharing arrangement, and the commission does not depend on a particular execution venue, then the commission sharing arrangements do not need to be disclosed</p>

- RG 266.123 When describing the operation of the crossing system we expect there to be sufficient detail to enable a client to identify the key features of the system's operations.
- RG 266.124 We expect that, where retail clients use a crossing system, the disclosure to them about the matters in Table 7 is clear, concise and effective.

Providing the information to clients

- RG 266.125 A crossing system operator must provide a document containing non-public crossing system information to each client before accepting an order from the client for the first time: Rule 5.2.2(2)(a).
- RG 266.126 It is not necessary for clients to acknowledge or consent to this disclosure. We consider that the disclosure may be made in printed or electronic form, including via email with hyperlinks or references to a website. This is the same approach as for Financial Services Guides in [Regulatory Guide 221 Facilitating digital financial services disclosures](#) (RG 221).
- RG 266.127 Where a client asks for the non-public crossing system information in hard copy form (e.g. if they do not have access to electronic communications), we expect the crossing system operator to provide it to them in this form.

Updating the information

- RG 266.128 A crossing system operator must update its non-public crossing system information within one business day of implementing changes to the operation of the crossing system where those changes affect the accuracy of information disclosed under Rule 5.2.2(3) and described in Table 6 and Table 7. A crossing system operator must provide the updated information to clients before accepting an order from the client after the update has been made. Clients only need to be notified about final system changes: see RG 266.115.
- RG 266.129 We expect that the notification will be made when there is a material change to the crossing system, particularly when it affects a client's use of the crossing system. For example, in relation to how orders are managed:
- (a) we expect clients to be notified when the change affects the order types available, how the price of an order is determined, or how the priority of orders is determined; and
 - (b) we would not expect clients to be notified when there are technical changes to the crossing system—for example, enhancement to the speed at which it operates—which do not affect the logic of how, for example, price or priority is determined.
- RG 266.130 A crossing system operator should consider providing advanced notice to its clients about planned changes to its crossing system where there are material

changes to the way a user may access the crossing system or to the execution outcome (e.g. price) a user may expect to obtain from the crossing system.

- RG 266.131 Where the update is provided on a website, we expect that steps should be taken to ensure that clients are aware of the new information on the website. This may be done through an email with a hyperlink to the website, or through another form of written documentation (paper or electronic).

Notifying ASIC of the information

- RG 266.132 Rule 5.2.2(4) requires a crossing system operator to provide ASIC with the non-public information that has been made available to its clients and each update to the information within one business day. In fulfilling this requirement, we expect a crossing system operator to email ASIC with the information that has been provided to its clients. If the information is provided to its clients through a website hyperlink, the same hyperlink can be provided to ASIC.

Where to notify

Notification to ASIC

The notification to ASIC should be emailed to crossing.systems@asic.gov.au.

Notifications of crossing system outages

- RG 266.133 Rule 5.2.3 requires crossing system operators to notify ASIC and all users with orders in the crossing system at the time where a system outage may materially affect the efficiency or proper functioning of the crossing system. Examples of matters that may be considered material include:

- (a) when orders can no longer be entered, amended or cancelled in the crossing system; or
- (b) when the matching facility in the crossing system ceases to function efficiently.

- RG 266.134 We do not expect a crossing system operator to notify clients where, under the non-public disclosure requirements in Rule 5.2.2, it has disclosed to clients:
- (a) how it will route an order that may be in the crossing system at the time of the outage; and
 - (b) when it has discretion to on-route an order that may be in the crossing system at the time of the outage.

Note: See Table 7.

- RG 266.135 To meet the requirements of Rule 5.2.3, a crossing system operator should consider putting in place policies and procedures that clearly outline the steps to be followed if the crossing system experiences an outage. The policies and procedures should outline the period of time before the procedures are enacted and the process of notifying ASIC and users with orders in the crossing system.
- RG 266.136 These notifications may be made by any means that the crossing system operator determines is most efficient, including through the use of a standardised email to all users and ASIC.

Notification to ASIC

The notification to ASIC should be emailed to crossing.systems@asic.gov.au.

- RG 266.137 If a crossing system experiences an outage, and there are orders from another market participant that are affected by the outage, the notification should be made to the other market participant. This is because the crossing system operator may not know the contact details of the underlying clients, and the market participant responsible for these clients is in the best position to take action that is in its clients' best interests.

Fair treatment of users

Fair treatment of all users of a crossing system

- RG 266.138 Rule 5.3.1(1) requires a crossing system operator to ensure that:
- (a) the crossing system is operated by a common set of procedures that balances the interest of all users; and
 - (b) the procedures do not unfairly discriminate between crossing system users.
- RG 266.139 This is to ensure that users are treated in a fair and impartial manner and that retail clients are treated fairly compared to wholesale and principal users.
- RG 266.140 The requirement to treat users fairly does not prevent a crossing system operator from providing less favourable treatment for its own use of the crossing system or that of a related body corporate (Rule 5.3.1(2))—for example, providing client orders with time priority over principal orders.
- RG 266.141 In complying with Rule 5.3.1, we expect a crossing system operator to develop a common set of operating procedures that address the matters in Table 6 and Table 7.

Fairness and priority in dealing

- RG 266.142 Rules 5.3.2 and 5.3.3 relate to fairness and priority when dealing with client orders in a crossing system.
- RG 266.143 Rule 5.3.3(1)(h) specifies that a crossing system operator's principal orders are not to be knowingly interposed between orders of its clients that would otherwise have crossed in its crossing system. We consider that a crossing system that systematically matches client orders with principal orders, without considering client orders that are available to match, would be inconsistent with these requirements.

Opting out of a crossing system

- RG 266.144 Under Rule 5.3.4, a crossing system operator must permit a user of the crossing system to opt out of having their orders sent to the crossing system or another market participant's crossing system. The crossing system operator must not impose any additional operational or administrative requirements as a consequence of a client electing to opt out.
- RG 266.145 Additional operational or administrative requirements include requiring users who opt out to contact the crossing system operator on a trade by trade basis through a different mechanism to their usual broking arrangements.

Monitoring and suspicious activity reporting

Monitoring the use of a crossing system

- RG 266.146 Rule 5.4.1 requires a crossing system operator to monitor the use of its crossing system for compliance with:
- (a) the obligations that the crossing system operator has imposed on the user in relation to the crossing system as discussed under 'User obligations' in Table 7; and
 - (b) the operating procedures of the crossing system as described in Table 7.
- RG 266.147 The monitoring that we expect a crossing system operator to undertake will vary depending on the nature, size and complexity of the crossing system and the crossing system operator's business. The types of factors that may warrant higher levels of monitoring include, for example, whether:
- (a) it is possible for one or more users to directly access and enter orders into the crossing system;
 - (b) there are liquidity providers active in the crossing system or otherwise large volumes of order messages; and
 - (c) there is principal trading in the crossing system.

- RG 266.148 Where the crossing system is large and complex and there are large volumes of orders, the crossing system operator should consider monitoring activity in real time or at least having in place adequate filters and controls that it monitors in real time. This will enable a crossing system operator to effectively meet its responsibilities to ensure the efficiency and integrity of its crossing system and meet the requirement to have appropriate controls in place: see RG 266.159–RG 266.163.
- RG 266.149 Post-trade monitoring may be adequate where a crossing system:
- (a) has a simple order and matching process;
 - (b) has relatively low order and trade volumes; and
 - (c) does not have clients directly accessing the system.
- RG 266.150 Any monitoring (whether manual or automated, real-time or post-trade) could include, for example, monitoring:
- (a) whether users have complied with their user obligations and the operating procedures;
 - (b) for spikes in order and trading volumes that may affect the efficiency and integrity of the crossing system;
 - (c) the use of order types that may be inconsistent with their intended purpose as outlined in the crossing system’s operating procedures and disclosures made to clients (see ‘Order types’ in Table 7);
 - (d) activity that has interfered with, or is likely to interfere with, the efficiency and integrity of the crossing system (see RG 266.159–RG 266.163);
 - (e) where there is principal trading in the crossing system, that principal orders are not receiving more favourable outcomes than client orders; and
 - (f) where a crossing system promotes itself as providing a specific benefit (e.g. being a ‘safe harbour’ from high-frequency traders or an execution venue of ‘natural liquidity’), that activity in the crossing system is consistent with such disclosures.
- RG 266.151 We expect that a crossing system operator’s monitoring activity will help the crossing system operator to determine whether the filters and controls it has put in place ensure the efficiency and integrity of its crossing system: see RG 266.159–RG 266.163.

Managing breaches identified through monitoring activity

- RG 266.152 A crossing system operator must also take action to ensure that any breaches identified as part of its monitoring activities do not recur: Rule 5.4.1(1)(c). To comply with Rule 5.4.1(1)(c), we expect crossing

system operators to have policies and procedures for managing suspected breaches. The policies and procedures may include:

- (a) documenting inquiries made on suspected breaches, and the results of these inquiries;
- (b) actions that may be taken for certain types of breaches; and
- (c) internal escalation policies and procedures and external and internal notifications to be made in relation to types of breaches.

Notifying ASIC of breaches

RG 266.153 Rule 5.4.1(2) requires a crossing system operator to notify ASIC, as soon as practicable, of all significant breaches it identifies during the course of its monitoring activities. In assessing what constitutes a ‘significant’ breach, a crossing system operator is not limited to considering a potential breach of the Corporations Act or market integrity rules. The crossing system operator should assess:

- (a) the types of users that access the crossing system and whether the activity or conduct of concern was targeted against particular types of users;
- (b) the nature of the activity or conduct of concern (e.g. whether it is repetitive);
- (c) the potential profitability of the activity or conduct of concern; and
- (d) any potential impacts on the efficiency and integrity of the crossing system, and other execution venues. We do not expect a significant breach of the commercial terms between the crossing system operator and client to be reported to us.

RG 266.154 A crossing system operator must give ASIC written notification of the breach as soon as practicable: Rule 5.4.1(2). We would expect to be notified within three business days of determining that there is a notifiable matter. This is consistent with our expectations for suspicious activity reporting.

Notification to ASIC

The notification to ASIC should be emailed to crossing.systems@asic.gov.au.

Record keeping

RG 266.155 Rule 5.4.1(3)(a) requires a crossing system operator to maintain records that document its monitoring activities for a period of seven years. We expect these records to include:

- (a) details of the monitoring activities the crossing system operator has undertaken; and

- (b) results of the monitoring activities, including details of inquiries made and any communications that have been sent to clients, internal management and ASIC about the monitoring activities.

RG 266.156 A crossing system operator must also maintain records of breaches that it has identified for a period of seven years: Rule 5.4.1(3)(b).

Reporting suspicious activity in a crossing system

RG 266.157 A market participant that operates a crossing system is required by Rule 5.4.2 to notify ASIC if it has reasonable grounds to suspect that a person has placed an order, or entered into a transaction, on a crossing system operated by the market participant:

- (a) while in possession of inside information; or
- (b) which has or is likely to have the effect of:
 - (i) creating an artificial price for trading in financial products on a financial market operated in this jurisdiction;
 - (ii) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in financial products on a financial market operated in this jurisdiction;
 - (iii) creating or causing the creation of a false or misleading appearance of active trading in financial products on a financial market operated in this jurisdiction; or
 - (iv) creating or causing the creation of a false or misleading appearance with respect to the market for, or price for trading in, financial products on a financial market operated in this jurisdiction.

RG 266.158 The guidance in Section H of RG 265 on suspicious activity reporting obligations relating to orders placed or transactions entered into on a market applies to operators of a crossing system for reportable matters on a crossing system.

Systems and controls

Efficiency and integrity controls

RG 266.159 Rule 5.5.1 requires a crossing system operator to have:

- (a) appropriate automated filters designed to ensure the efficiency and integrity of its crossing system (Rule 5.5.1(1)); and
- (b) controls that enable the immediate suspension or cancellation of orders in a series of related orders (Rule 5.5.1(2)).

- RG 266.160 In relation to the obligation in Rule 5.5.1(1), filters are pre-trade controls that establish points at which orders are tested and, by exception, where the system may determine an action other than passing them directly into the crossing system. In practical terms, an automated filter can usually do one of four things in relation to any given order (depending on the settings of the filter parameters):
- (a) pass the order into the crossing system;
 - (b) pass the order into the crossing system but identify it as an exception on exception reports generated by the system for subsequent analysis;
 - (c) pass the order to an appropriate person for review—this could include personnel on an electronic trading desk—and a decision as to whether the order may be submitted to the crossing system or routed to another execution venue; or
 - (d) reject the order outright.
- RG 266.161 We recognise that, given the differences in the types of business conducted by crossing system operators, there must be some degree of flexibility in determining what constitutes ‘appropriate’ filters for each crossing system operator. The types of filters will depend on the crossing system operator’s capabilities; the nature, scale and complexity of its business; and the particular risks that the crossing system operator has assessed as relevant to that business (including financial, reputational and regulatory risks).
- RG 266.162 The requirement in Rule 5.5.1(2) relates to controls that enable a crossing system operator to effectively implement automated controls to limit a series of related orders from interfering with the efficiency and integrity of the crossing system. For example, this may be required if a user has flooded a crossing system with orders which have substantially slowed the system down so that it no longer operates efficiently. Such controls enable a crossing system operator to target its response to orders which may substantially disrupt the service it offers to other users.
- RG 266.163 In addition to having appropriate automated filters and controls, we expect a crossing system operator to consider the resources it may need to cope with the impacts of stressed market conditions on its crossing system, including the adequacy of any disaster recovery and capacity management with respect to its crossing system operations. In managing client orders in the event of stressed market conditions, this may include switching to a back-up facility or bypassing the crossing system and routing to another execution venue (e.g. a licensed exchange market). Whatever the case, these arrangements should not result in a worse outcome for the crossing system operator’s clients.

Appendix: Procedures, determinations and practice notes

RG 266.164 Table 8 lists the old SFE procedures, determinations and practice notes relevant to the ASIC market integrity rules.

Table 8: Pre-existing SFE procedures, determinations and practice notes that are relevant to the ASIC market integrity rules

Number	Title
PDP 1.13	Order records and accounting records
PDP 2.2.23	Order records and accounting records
PDP 2.2.25	Client documentation
PDP 2.2.26	Clients' segregated account obligations
PDP 2.2.28	Mandatory recording of information by the exchange and its participants
PDP 3.1.5	Market manipulation and misleading acts or practices regarding price
PDP 3.1.4	Market manipulation and misleading acts or practices regarding price
PDP 3.1.6	Entering orders without an intent to trade
PDP 3.1.7	Orders to be transmitted as soon as received
PDP 3.1.8	Orders to be transmitted and executed in the sequence received
PDP 3.1.9	Aggregation of orders
PDP 3.1.10	Disclosure
PDP 3.1.11	Withholding orders
PDP 3.1.12	Withdrawing orders
PDP 3.1.13	Pre-arrangement
PDP 3.1.14	Trading to the exclusion of others
PDP 3.1.15	Wash trades
PDP 3.1.17	Personal account trading
PDP 3.1.18	Dual trading prohibition
PDP 3.1.19	Trades to be allocated in sequence of order receipt
PDP 3.2	Strategy trades
PDP 3.3	Pre-negotiated business
PDP 3.4	Block trades
PDP 3.5	Exchange for physical transactions

Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASX 24	The exchange market formerly known as the Sydney Futures Exchange (SFE), operated by Australian Securities Exchange Limited
ASX 24 Operating Rules	ASX Limited's new operating rules, which replace the pre-existing SFE Operating Rules
Australian domestic licensed financial market	A financial market licensed under s795B(1) of the Corporations Act
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
client	Has the meaning given by Rule 1.4.3
client account	Has the meaning given by Rule 1.4.3
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of the Act
CP 157 (for example)	An ASIC consultation paper (in this example numbered 157)
deed	An instrument under seal containing a written contractual arrangement between ASIC and the foreign market participant that is enforceable by a court
FEX	FEX Global Pty Ltd
FEX market	The market operated by FEX
foreign market participant	A market participant that is a foreign entity and does not hold an AFS licence
Futures Capital Rules	ASIC Market Integrity Rules (Futures Markets – Capital) 2017—rules made by ASIC under s798G of the Corporations Act
Futures Markets Rules	ASIC Market Integrity Rules (Futures Markets) 2017—rules made by ASIC under s798G of the Corporations Act

Term	Meaning in this document
house account	Has the meaning given by Rule 1.4.3
IOSCO	International Organization of Securities Commissions
market integrity rules	Rules made by ASIC under s798G of the Corporations Act
market participant	A participant of a market
MDP (Markets Disciplinary Panel)	ASIC's Markets Disciplinary Panel, through which ASIC exercises its power to issue infringement notices and to accept enforceable undertakings in relation to breaches of the market integrity rules
order system	Has the meaning given by Rule 1.4.3
principal trader	A market participant that trades only on its own behalf
RG 214 (for example)	An ASIC regulatory guide (in this example numbered 214)
Rule 2.2.1 (for example)	A rule of the ASIC Market Integrity Rules (Futures Markets) (in this example numbered 2.2.1) unless otherwise specified
s912D (for example)	A section of the Corporations Act (in this example numbered s912D)
SFE Operating Rules	The operating rules of the Sydney Futures Exchange, now replaced by the ASX 24 Operating Rules
terminal	Has the meaning given by Rule 1.4.3
trading platform	Has the meaning given by Rule 1.4.3

Related information

Headnotes

ASX 24 market, crossing systems, foreign market participants, Futures Markets Rules, market integrity rules, market participants, minimum presence requirements, principal traders, risk management, supervisory policies and procedures, terminals

Regulatory guides

[RG 78](#) *Breach reporting by AFS licensees*

[RG 104](#) *Licensing: Meeting the general obligations*

[RG 105](#) *Licensing: Organisational competence*

[RG 172](#) *Financial markets: Domestic and overseas operators*

[RG 216](#) *Markets Disciplinary Panel*

[RG 221](#) *Facilitating digital financial services disclosures*

[RG 225](#) *Markets Disciplinary Panel practices and procedures*

[RG 265](#) *Guidance on ASIC market integrity rules for participants of securities markets*

Legislation

ASIC Act, s50

ASIC Supervisory Cost Recovery Levy Act 2017

ASIC Supervisory Cost Recovery Levy (Collection) Act 2017

Corporations Act, Pts 5B.2 and 7.2A; s659B(1), 795B, 912A and 912D

Corporations Amendment (Financial Market Supervision) Act 2010

Corporations (Fees) Act 2001

Corporations Regulations, reg 10.15.04

Market integrity rules

Futures Capital Rules

Futures Markets Rules, Chapters 3 and 5; Parts 2.1–2.4 and 3.3–3.5; Rules 1.2.1–1.2.2, 1.4.3, 1.6.1, 2.2.1, 2.2.8, 2.3.2–2.3.4, 2.4.1, 5.1.1–5.1.2, 5.2.1, 5.2.2, 5.2.3, 5.3.1–5.3.3, 5.4.1–5.4.2 and 5.5.1–5.5.2

Consultation papers

[CP 157](#) *Proposed ASIC market integrity rules: FEX market*

[CP 166](#) *Market integrity rules for non-AFS licensee foreign participants and consequential amendments*

[CP 195](#) *Proposed amendments to ASIC market integrity rules: ASX 24 and FEX markets*

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

Waivers

ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/312

ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/313

[\[CW 13/972\]](#)

Other publications

IOSCO, [Objectives and principles of securities regulation](#) (PDF 187 KB)