



8 January 2019

Markets Disciplinary Panel Secretariat  
Chief Legal Office  
Australian Securities and Investments Commission  
Level 5, 100 Market Street  
SYDNEY NSW 2000

By email: [mdp@asic.gov.au](mailto:mdp@asic.gov.au)

## MARKETS DISCIPLINARY PANEL

Thank you for the opportunity to comment on the proposed changes to the Markets Disciplinary Panel (MDP) process that were adopted after ASIC assumed responsibility for market supervision in 2010.

It is important that MDP's processes are efficient and effective in enforcing any breaches by participants or market operators of ASIC's Market Integrity Rules (MIRs).

The existing framework, where a peer review panel independently determines if there is evidence that a breach of the MIRs has occurred and, where necessary, imposes appropriate remedies or penalties has generally served the market well.

ASIC is not proposing to fundamentally change the existing MDP processes but wants to adopt more streamlined policies and procedures to achieve more efficient and cost effective outcomes, including issuing a consolidated regulatory guide to replace the existing separate policy documents. For example, the Regulatory Guide would be redrafted to remove the detailed list of factors to be taken into account when determining the remedy or penalty to be imposed and replace it with four key high-level factors. It is important that the panel members should be provided with sufficient guidance to ensure that they are able to reach fair, reasonable, and consistent decisions.

ASX notes the proposal to remove determinations around alleged market operator contraventions of the MIRs from the MDP process and replace it with a hearing by an internal ASIC delegate. As no details are provided on how this arrangement would work in practice it is difficult to provide a substantive comment on the proposal although the reasons for contemplating the change seem sensible.

Kind regards

A handwritten signature in black ink that reads "Gary Hobourn". The signature is written in a cursive, flowing style.

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**Gary Hobourn**  
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Regulatory and Public Policy