



ASIC
Australian Securities &
Investments Commission

REPORT 634

Market assessment report: Bloomberg Tradebook Australia Pty Ltd

ACN 091 542 077

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About this report

This report outlines the findings of our assessment of the markets operated by Bloomberg Tradebook Australia Pty Ltd (BTA). We have reviewed BTA's compliance with its obligations as a market licensee under the *Corporations Act 2001*, focusing on governance, supervision and enforcement, and systems and controls.

This report makes several recommendations designed to improve BTA's arrangements in those three areas. A number of the recommendations will be relevant to other specialised market operators regulated by ASIC, particularly those that outsource key business functions.

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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.

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

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Executive summary

- 1 We conducted an assessment of Bloomberg Tradebook Australia Pty Ltd (ACN 091 542 077) (BTA) and its compliance with specific obligations as a market operator licensed under the *Corporations Act 2001* (Corporations Act). BTA is an Australian incorporated company that is wholly owned by Bloomberg L.P. (BLP). BTA operates and arranges access to five electronic markets. These markets offer trading in bonds and debentures, derivatives and spot foreign exchange.
- 2 Section 794C of the Corporations Act empowers ASIC to assess how well a market licensee is complying with its obligations. The present assessment covers the period from 21 December 2017 to 21 December 2018 (assessment period). It focuses on BTA's obligations under s792A(c) to operate its markets adequately, with a particular focus on the areas of governance, supervision and enforcement, and systems and controls.
- 3 We found that BTA met its obligations as a licensed market. However, we also found that its arrangements need to improve in each of the three areas we examined. In particular, improvements to governance arrangements are necessary so BTA can meet its regulatory expectations in the future and ensure its corporate structure remains fit for purpose.

Key findings and recommendations

- 4 Our assessment focused on three areas: governance, supervision and enforcement, and systems and controls.

Governance

- 5 We assessed BTA's corporate governance arrangements, and whether those arrangements were fit for purpose considering its role as a market operator.
- 6 We found the arrangements need strengthening so BTA can ensure future compliance under its current corporate structure, particularly in relation to the role of the board and the governance of outsourcing arrangements.
- 7 Specifically, BTA's outsourcing arrangements do not contain procedures for BTA to effectively control the performance of the outsourced entities, and BTA's board does not contribute sufficiently to BTA's governance. As a result, we have recommended that BTA should put in place mechanisms to ensure that the performance of BTA's related entities that operate the BTA markets is adequately tested and controlled, including service levels. These mechanisms should be documented and presented to ASIC within six months of the publication of this report.

- 8 We also recommend that BTA should develop and implement procedures to ensure that:
- (a) formal board meetings are held regularly, and their coverage includes performance under the outsourcing agreements;
 - (b) BTA's directors receive regular reports on outsourcing performance, risk and compliance; and
 - (c) BTA reviews its board composition to evaluate the need for any changes considering the experience and expertise of the directors.

Supervision and enforcement

- 9 We assessed BTA's arrangements for supervising its markets and found the surveillance function was limited, manual and reactive. While we received favourable accounts from participants on the perceived integrity of the markets operated by BTA, we are of the view that BTA's supervision procedures require a robust strengthening process.
- 10 We have therefore recommended that BTA conducts a review of its supervisory and monitoring arrangements, including an analysis of the potential types of misconduct that may occur in its markets and the appropriate procedures for detecting them. BTA should then present to us, within six months of the publication of this report, a complete market supervision and monitoring program.

Systems and controls

- 11 We assessed BTA's systems and controls, particularly the market's technology governance and approach to operational risk. We found BTA's arrangements were sufficient and adequate given the nature, size and complexity of the market. However, we also found that BTA's technology governance could be improved by enhancing board reporting and engagement.
- 12 We also conducted a review of BTA's cyber resilience capabilities, and found the level of cyber resilience across the organisation to be in the top tier of financial institutions and market operators that have been assessed by ASIC to date.

A The assessment

Key points

Under s794C(1) of the Corporations Act, we may conduct an assessment of a market licensee such as BTA.

In conducting our assessment, we may assess how well a market licensee is complying with its obligations under s792A(c), but we can also include other Ch 7 obligations.

We use the licensee's self-assessment reports, our observation of the licensee's performance (including a review of trading records and any surveillance alerts), market intelligence and other sources to form a view of how well the licensee has operated its market during the identified assessment period.

Scope

- 13 We assessed BTA's arrangements under s792A(c) of the Corporations Act and conducted inquiries about the adequacy of its arrangements for supervising the market during the assessment period, including:
- (a) handling conflicts between its commercial interests and its need to ensure that the markets are fair, orderly and transparent;
 - (b) monitoring the conduct of participants on or in relation to the markets; and
 - (c) enforcing compliance with the markets' operating rules.
- 14 On the conflict handling assessment, we also included a review of BTA's corporate governance arrangements, outsourcing arrangements and intercompany agreements.
- 15 On the monitoring and enforcing obligation, our approach was to look at the whole surveillance cycle, from the scoping and design of monitoring procedures and alerts to the final stages of their escalation, to the extent those arrangements exist for the market.
- 16 We also assessed BTA's compliance with its obligation under s792A(d) to have sufficient resources, specifically for the systems and controls function and cyber resilience.

Methodology

Materials we reviewed

- 17 In conducting our assessment, we considered:
- (a) BTA's annual regulatory report for the period 1 January 2018 to 31 December 2018;
 - (b) information obtained from and about BTA in the ordinary course of our dealings with it as a market licensee;
 - (c) BTA's response to our notice dated 21 December 2018, under s30 of the *Australian Securities and Investments Commission Act 2001* to obtain information about how it was meeting certain obligations under the Corporations Act;
 - (d) information we received during our visits to BTA's office during May and June 2019, where we conducted interviews with BTA's directors and compliance staff, as well as members of Bloomberg's related entities who covered risk, legal, infrastructure, technology and cybersecurity;
 - (e) trading records; and
 - (f) information we received during meetings with a cross-section of participants of the markets operated by BTA, including buy-side and sell-side participants.

B Governance

Key points

We assessed BTA's corporate governance arrangements, and whether those arrangements were fit for purpose considering the circumstances of the company.

We found the arrangements need strengthening so that they remain fit for purpose taking into account the circumstances and needs of the markets, particularly in relation to the role of the board and the governance of outsourcing arrangements.

Corporate governance and BTA's nature

- 18 A key objective of BTA as a company is to ensure that the BTA markets comply with all the obligations applicable to Australian domestic market licensees. This requires BTA to have corporate governance arrangements that are fit for that purpose.

Corporate governance requirements for unlisted market operators

- 19 Corporate governance is a driver of the operations and performance of a company and has many components including frameworks, decision making, responsibility and relationships between stakeholders. It also encompasses the mechanisms by which companies are held to account. While good governance practices are important for both listed and private companies, their detail and implementation will depend on a company's size, circumstances and needs.
- 20 While many unlisted companies lack the size or complexity to require an overly formal approach to governance, a market operator will generally need to have in place rigorous governance arrangements to respond to the complexity involved in operating a financial market and the regulatory obligations associated with holding an Australian market licence (AML).
- 21 These corporate governance arrangements should comprise adequate frameworks, processes and controls to ensure ongoing compliance with the AML obligations, as well as to discharge director duties, considering the specific circumstances and nature of each licensed market.

The circumstances and corporate nature of BTA

- 22 BTA is a subsidiary of BLP. From a market operation perspective, BTA's role is to provide local access to the Bloomberg transaction systems and to ensure regulatory compliance with BTA's AML obligations.
- 23 The day-to-day operation of the transaction systems made available by BTA in Australia is conducted by several related companies including BLP (parent company of BTA), Bloomberg Tradebook Singapore Pte Ltd and Bloomberg Global Markets Services LLC (together, BTA's related entities).
- 24 This structure configures BTA as an operator that 'outsources' fundamental aspects of its regulated functions to other companies of the same group. This configuration has the potential to bring about risk, management and compliance issues that must be appropriately managed. The risks can be exacerbated when key market functions are outsourced to entities that are not regulated as markets and that are based in overseas jurisdictions—as is the case with some of BTA's related entities. Section 792A(c) of the Corporations Act, as it applies to BTA, extends the obligation to have adequate supervisory arrangements to those that involve the appointment of an independent person or related entity.

Purpose of BTA's intercompany agreements

- 25 The outsourcing of key market functions means that BTA does not exercise direct control over the transaction systems and the day-to-day business operations of the markets. Instead, a fundamental purpose of BTA as a company is to achieve compliance with Australian law. This purpose is intended to be achieved by means of intercompany agreements between BTA and BTA's related entities. The intercompany agreements are defined under BTA's licence as agreements 'entered into by BTA and its related bodies corporate in order to meet its obligation under this licence'.
- 26 These intercompany agreements have evolved over time to incorporate new companies that are involved in the operation of the BTA markets. This has added complexity to BTA's outsourcing structure and therefore risk to BTA. BTA's governance arrangements must remain fit for purpose, consistent with this added complexity and associated risk.

Assessment and findings

- 27 We have assessed BTA's corporate governance arrangements and concluded that those arrangements need strengthening to ensure they remain fit for purpose taking into account the circumstances and needs of the markets. This is because, while BTA's governance framework is generally adequate, its practical implementation is not sufficiently robust.

BTA's governance framework

28 BTA's governance framework fundamentally comprises its constitution and intercompany arrangements.

Adequacy of BTA's constitution

29 BTA's constitution addresses matters such as the procedures for calling and holding general directors' meetings, adopting resolutions, and appointing and removing directors. These procedures are detailed and generally adequate to regulate the corporate governance activities of the company.

Adequacy of intercompany agreements

30 The relationship between BTA and the BTA-related entities that operate the trading systems is documented in the intercompany agreements. These agreements have the effect of creating an outsourcing-type arrangement between BTA and the respective Bloomberg group entities.

31 Since BTA is not the day-to-day operator of the five trading systems for which it is responsible for AML purposes, the agreements allow BTA to meet its obligations under the Corporations Act by providing a means for it to obtain assistance from the effective operators. The agreements require that the relevant entities will 'to the extent that it is reasonably practicable to do so, do all things necessary to assist BTA to comply with its obligations as the Australian markets licence holder' in relation to the transaction systems. This wording mirrors the obligation in s792A(a) of the Corporations Act, which is the obligation that underlies all other licensee obligations.

32 In addition, from ASIC's point of view, these intercompany agreements provide an indirect mechanism (i.e. through BTA) for the regulator to request assistance (or information) from the operators of BTA's outsourced trading systems.

33 Therefore, the agreements constitute an appropriate framework to allow BTA to comply with regulatory obligations in Australia. However, this framework is not in itself sufficient to ensure control over delivery of regulatory requirements. The covenants in the agreements do not by themselves achieve compliance if procedures to ensure that related entities effectively deliver assistance to BTA are not in place and followed. BTA must be satisfied that, in practical terms, the affiliated entities operate the relevant transaction systems so that BTA is compliant with its obligations as a market licensee under Australian law.

Adequacy of outsourcing arrangements

34 BTA's outsourcing arrangements comprise the intercompany agreements as well as BTA's arrangements for monitoring the performance of the related

entities under those agreements. As market operators cannot outsource their responsibility for meeting regulatory obligations, the arrangements must include mechanisms to ensure the board and senior management receive enough information to be satisfied that the performance of the outsourced entities meets the requirements for a market licensee.

35 BTA's intercompany agreements are adequate in that they constitute a legally binding written contract with the service provider that sets out the nature, scope and quality of services to be provided, including termination provisions. The intercompany agreements also require timely assistance from the affiliate companies to ensure that BTA's obligation to notify ASIC of certain matters is discharged adequately and in a timely manner.

36 However, we found that BTA lacks adequate procedures for monitoring the performance of its related entities to ensure they are effectively providing the services covered by the outsourcing agreement. During the assessment period the board and senior management of BTA did not receive any reports on quality and delivery of services that would allow them to assess whether BTA is discharging its obligations as a market licensee.

The role of directors

37 Directors are required to ensure compliance with general and specific laws applying to the company's operations. Directors of market operators are expected by ASIC to be of good repute and sufficiently experienced to ensure the sound and prudent management of the markets.

38 The directors of BTA are Australian-based relationship account managers for the electronic trading facilities offered by BTA, with varied expertise in the financial industry and BTA. While they regularly meet and communicate in their capacity as senior managers, their formal activity as directors during the assessment period was limited to recording resolutions about changes to the intercompany agreements, market operating rule changes and licence variations. No materials other than the above-mentioned resolutions were provided to the board to allow them to discharge their functions. The board did not meet formally in person during the assessment period.

39 One key responsibility of BTA's directors is to ensure that all the obligations and conditions of the market licence have been complied with, and that a control structure to comply with those obligations exists and operates effectively. During our direct interviews with the BTA directors, they demonstrated sound understanding of the BTA business and detailed knowledge about the products and services. However, their knowledge about the regulatory obligations that BTA is subject to, and of the procedures that would be required for the directors to be satisfied that they are being appropriately discharged, could be improved.

40 We note that after the assessment period BTA advised us that it had commenced work on enhancing its oversight and governance arrangements to address these areas of concern.

Table 1: Adequacy of BTA's governance arrangements—Findings and recommendations

Finding	Recommendation
<p>BTA's outsourcing arrangements do not contain procedures for BTA to effectively control the performance of the outsourced entities</p> <p>BTA's outsourcing arrangements do not include mechanisms to ensure the board and senior management receive sufficient information to be satisfied that the performance of the outsourced entities meets the requirements for a market licensee</p>	<p>BTA should put in place mechanisms to ensure that the performance of BTA's related entities that operate the BTA markets is adequately tested and controlled, including service levels</p> <p>These mechanisms should be documented and presented to ASIC within six months</p>
<p>BTA's board does not contribute sufficiently to BTA's governance</p> <ul style="list-style-type: none"> • BTA's board did not formally meet during the assessment period • BTA's board did not request or receive written reports on BTA's risk and compliance performance other than the annual report to ASIC • BTA's board has limited understanding of the regulatory expectations of a licensed market 	<p>BTA should develop and implement procedures to ensure that:</p> <ul style="list-style-type: none"> • formal board meetings are held regularly, and their coverage includes performance under the outsourcing agreements • BTA's directors receive regular reports on outsourcing performance, risk and compliance • BTA reviews its board composition to evaluate the need for any changes considering the experience and expertise of the directors

C Supervision and enforcement

Key points

We assessed BTA's arrangements for supervising its markets. While we received favourable accounts from participants on the perceived integrity of the markets, BTA does not have in place a sufficiently complete supervision and monitoring program.

As a result, it has not been possible to determine whether the absence of supervisory matters raised by BTA during the assessment period under their 'Market supervisory arrangements' can be attributed to the effectiveness of BTA's surveillance function.

We have therefore recommended that BTA conducts a review of its supervisory and monitoring arrangements, including an analysis of the potential types of misconduct that may occur in its markets and of the appropriate procedures for detecting them. It should then present to us, within six months of the publication of this report, a complete market supervision and monitoring program.

BTA will need to assess the resources it dedicates to the supervision function in light of this reviewed supervision and monitoring program.

The supervision and enforcement obligation

- 41 Bloomberg Tradebook Australia Pty Ltd is listed in reg 10.15.02 of the Corporations Regulations 2001 (Corporations Regulations), which relates to the application of the *Corporations Amendment (Financial Market Supervision) Act 2010*. As such, under s792A(c) of the Corporations Act as it applies to markets specified in that regulation, BTA is currently one of the Australian licensed markets that retain the function of supervising the market, including monitoring the conduct of participants on or in relation to the market, and enforcing compliance with the market's operating rules.

Note: Schedule 1 to the *Corporations Amendment (Financial Market Supervision) Act 2010* amended s792A(c) of the Corporations Act to eliminate the requirement for market licensees to supervise the market. However, under reg 10.15.02 of the Corporations Regulations, the amendments made by the amending Schedule do not apply to a number of markets, including BTA. As a result, s792A(c) as it applies to BTA still provides that the market licensee must have adequate arrangements (whether they involve a self-regulatory structure or the appointment of an independent person or related entity) for supervising the market, including arrangements for monitoring the conduct of participants on or in relation to the market.

- 42 Regulatory expectations about conduct on wholesale markets, primarily fixed income, currencies (FX) and commodities (altogether known as FICC) and equity derivatives, have evolved in recent years following the uncovering of market misconduct in these markets. This includes our

expectations concerning market infrastructure providers, including market operators. ASIC's revised [Regulatory Guide 172](#) *Financial markets: Domestic and overseas operators* (RG 172) reflects these increased expectations. On the monitoring obligation for all market venues, we expect, at a minimum, a documented program of review to monitor the level of compliance with operating rules.

- 43 We note that the obligation to supervise and monitor the market is not only applicable to markets structured as central limit order books, but is also relevant to other market structures, including the 'request for quote' (RFQ) trading venues that BTA operates. Misconduct can occur in RFQ types of markets and operators must have adequate arrangements for supervising these markets too.

BTA's arrangements for supervision and enforcement

- 44 The operating rules of a regulated financial market should outline the obligations of participants using the venue (RG 172.130), including the conduct of participants in relation to the licensed market with the objective of promoting honesty and fair practice: reg 7.2.07(b)(i) of the Corporations Regulations.
- 45 The admission of a participant to a market by the market operator is essentially the first supervisory decision made by a market operator. BTA's operating rules set out certain threshold eligibility criteria that must be met by a participant. Additional, broader assessment steps are set out in BTA's 'Market supervisory arrangements'.
- 46 We found that the assessment steps set out in BTA's 'Market supervisory arrangements' had been, in practice, superseded by an on-boarding process that we consider to be sufficiently comprehensive and sophisticated. We think that BTA's on-boarding process is supportive of sound risk-assessed supervisory decisions about admitting participants to the markets that BTA operates.
- 47 On an ongoing basis, BTA's operating rules and procedures contain several conduct-related obligations for participants, including:
- (a) the obligation of a participant to generally ensure that its conduct in relation to the transaction systems is consistent with the objective of promoting honesty and fair practice in the transaction systems;
 - (b) the obligation to comply with all applicable laws and regulatory requirements (including in Australia); and
 - (c) the responsibility for the accuracy of details, and the integrity and bona fides, of all information, bids and offers that are submitted to the transaction systems.

- 48 In addition, the rules specify several conduct circumstances that may result in termination or suspension, including if:
- (a) the participant has breached or will breach Ch 7 of the Corporations Act or the associated Corporations Regulations;
 - (b) the participant has engaged in false and misleading conduct in relation to its activities on the transaction systems;
 - (c) the conduct of the participant has threatened or is likely to threaten the fair, orderly and efficient operation of the transaction systems; or
 - (d) the participant has engaged in conduct that is inconsistent with just and equitable principles in the transaction of business in connection with the transaction systems.
- 49 Section 792A(c) of the Corporations Act requires BTA to supervise its market and enforce compliance with its operating rules, which includes monitoring the activities and conduct of participants using the market venue.
- 50 The details of supervision and monitoring programs of a market operator may vary, given the nature, scale and complexity of the market venue operated. However, at a minimum, we expect that there is a documented program of review to supervise the market and monitor the level of compliance with the operating rules.
- 51 The arrangements BTA has in place for supervising the market are set out in BTA's 'Market supervisory arrangements'. The arrangements rely on the local relationship managers, who have day-to-day interaction with participants, for detecting potential breaches of the market operating rules including instances of misconduct. The arrangements also rely on the role of the local compliance officer, to whom any suspected contraventions are to be escalated.
- 52 These arrangements do not appear to be able to be characterised as systematic, structured arrangements that are data-driven or data-supported or otherwise based on any specific measures or indicators of normal, or abnormal, market activity by participants.
- 53 However, in the course of our assessment work, BTA advised us of an additional layer of market activity review conducted by one of BTA's related entities. This activity review is not documented in the 'Market supervisory arrangements' but BTA has detailed it for us as being a monthly review of certain trading data metrics. From BTA's description, our view is that the additional review is quite limited in scope, frequency and sophistication. Any anomalies arising from that review are referred to the relevant local relationship manager or the local compliance officer, with further inquiry and potential escalation being essentially within the scope, and by the processes, of BTA's 'Market supervisory arrangements'.

Assessment and findings

Assessment approach

- 54 In assessing BTA's arrangements for supervising its markets, we analysed:
- (a) the appropriateness of BTA's systems and procedures for monitoring and surveillance;
 - (b) the effectiveness of the surveillance function; and
 - (c) the resourcing of the surveillance function.

Appropriateness of BTA's procedures for market monitoring and surveillance

- 55 The nature, scale and complexity of each of the BTA markets are not such that intensive and comprehensive procedures for market monitoring and surveillance are necessarily required. However, we consider that BTA's current arrangements are excessively reactive, manual and reliant on the instinct and experience of local relationship managers to identify non-compliance with the operating rules or the Corporations Act. The additional review layer that occurs at BTA's related entity level is a useful contribution to market monitoring but the factors that it considers may be indicative of non-compliance are very limited.
- 56 The participant conduct obligations under BTA's operating rules are expressed in general terms. We did not find that BTA had documented any analysis that identifies the specific behaviours or conduct of participants' activity on the markets that may indicate non-compliance with the principles-based obligations under the operating rules. We did not find that BTA had established a market monitoring program that sets out the types of misconduct they will be seeking to identify, nor how they will seek to identify them.

Table 2: BTA's procedures for market monitoring and surveillance

Finding	Recommendation
<p>BTA has sound supervisory arrangements for on-boarding participants</p> <p>BTA does not have a complete program for ongoing supervision and monitoring of its markets</p> <p>We did not find that BTA had established a market supervision and monitoring program that sets out the types of misconduct they will be seeking to identify, nor how they will seek to identify them</p>	<p>BTA should develop and submit to ASIC, within six months, a supervision and monitoring program that includes:</p> <ul style="list-style-type: none"> • identification of the types of misconduct that are relevant to the BTA market • mapping of the misconduct to documented monitoring procedures • reporting and escalation procedures • to the extent that BTA relies on its related entities for the development and implementation of the program, outsourcing arrangements that ensure effective control over the program by BTA's board

Effectiveness of the current surveillance function

- 57 BTA advised that no matters arose during the assessment period under their ‘Market supervisory arrangements’. We also received favourable accounts from participants on the perceived integrity of the markets operated by BTA.
- 58 BTA gave us a relatively small sample of trading activity records from the markets we selected for review. In our review of the data made available to us, we did not detect any indications of non-compliance with the operating rules or other indications of market misconduct. However, given the small sample size, we were unable to assess BTA’s surveillance function as effective. Due to the apparent absence of systematic data inputs to the local relationship managers as the first-line compliance monitors, we were also unable to conclude that they had been effective in raising non-compliance matters.

Table 3: Effectiveness of BTA’s surveillance function

Finding	Recommendation
<p>BTA’s surveillance function is not able to be assessed as effective</p> <p>In the absence of a surveillance program and given that no matters regarding potential market misconduct were detected by BTA during the assessment period, it is not possible to determine that BTA’s surveillance function is effective</p>	<p>BTA should include in its supervision and monitoring program procedures for assessing its effectiveness, and review it periodically</p> <p>BTA’s board should be periodically informed about the effectiveness of the supervision and monitoring program</p>

Surveillance function resourcing

- 59 The local relationship managers team and local compliance officer, with support from BTA’s related entities, appear to have sufficient resources to carry out current surveillance arrangements as set out in BTA’s ‘Market supervisory arrangements’. However, as BTA considers strengthening the surveillance function it should reassess whether it needs additional resources to carry out more sophisticated surveillance activities and/or whether its technological resources require upgrading.
- 60 Market operators’ capabilities to identify specific sources of market misconduct have been supported in recent years by industry-wide initiatives such as the FICC Markets Standards Board’s [Surveillance core principles for FICC market participants: Statement of good practice for surveillance in foreign exchange markets](#) (December 2016) and [Behavioural cluster analysis: Misconduct patterns in financial markets](#) (July 2018), and the Global Foreign Exchange Committee’s [FX Global Code](#) (August 2018). Coupled with expertise within other Bloomberg group market operator entities subject to, for example, the EU’s [Market Abuse Regulation](#) applicable to Bloomberg’s multilateral trading facilities, BTA should be well

positioned to have access to resources that would enable it to analyse and set out relevant behaviours or conduct for which it may design and implement appropriate market monitoring arrangements.

Table 4: Resourcing of BTA's surveillance function

Finding	Recommendation
<p>BTA's surveillance function may require additional resources to deliver the enhanced supervisory arrangements</p> <p>While the current resources that BTA dedicates to the surveillance function are enough to meet the requirements of BTA's 'Market supervisory arrangements', it is likely that additional resources will need to be applied to this function</p>	<p>As part of the development of its supervision and monitoring program, BTA should include an assessment of the human and technological resources that will be required for its appropriate implementation</p> <p>BTA should ensure that it maintains enough resources to conduct its supervision and monitoring program</p>

D Systems and controls

Key points

We assessed BTA's systems and controls, with emphasis on the market's technology governance, approach to operational risk and cyber resilience posture. We found BTA's arrangements were sufficient and adequate given the nature, size and complexity of the market. However, we also found that BTA's technology governance could be improved by enhancing board reporting and engagement.

- 61 Section 792A(d) of the Corporations Act imposes an obligation on market licensees to have sufficient resources (including financial, technological and human resources) to operate the market properly.
- 62 In this section we assess the extent to which BTA met its obligations to have sufficient resources to properly implement systems and controls and manage cyber resilience. Cyber resilience is an area of focus for ASIC with regard to market infrastructure providers given the central role they play in our economy, and the fact that cyber resilience is regarded as one of the most significant areas of concern across the financial services industry and the wider economy.

Technology governance and operational risk

- 63 We examined the adequacy of BTA's systems and controls including its arrangements for business continuity planning and disaster recovery, incident management, data privacy, outsourcing, and third-party interdependencies and vendor management. We found those arrangements were sufficient and adequate given the nature, size and complexity of the market.
- 64 In [Report 592](#) *Review of ASX Group's technology governance and operational risk management standards* (REP 592) we discussed the importance of effective enterprise risk management for market operators and highlighted the strategic value that can be delivered by an embedded, high-quality enterprise approach to the management of operational risk. Those observations are equally applicable to other licensed market operators, including BTA.
- 65 From our review of BTA's enterprise risk management program we found that BTA has a well-documented set of procedures for identifying and managing risks across various areas including operational risk, legal and

commercial risk, and compliance risk. BTA's compliance area is responsible for overseeing the risk management function which includes communicating the risk management process to staff, providing relevant staff education, identifying new risks and reviewing BTA's risk management processes on an ongoing basis.

- 66 On technology governance, REP 592 considers the importance of board and senior management engagement in different areas relating to technology, including risk management, enterprise architecture, the technology strategy and the effectiveness of technology with reference to recognised frameworks. At BTA, most of the technology functions identified above are provided by BLP through intercompany agreements. From our review of these policies and discussions with senior BLP staff we found that the BLP board and senior management are sufficiently engaged in the different areas relating to technology. However, from our review of BTA's board activity, we found that a more formal framework for reporting to the board on those areas would improve the board's ability to engage in those areas and satisfy itself that the technology arrangements it has with BLP are sufficient to meet its obligations as a licensee under s792A(d) of the Corporations Act.

Cyber resilience

Overview of assessment process

- 67 For the assessment of BTA's level of cyber resilience we used the [NIST Cybersecurity Framework](#). The NIST framework has been used as part of ASIC's ongoing cyber assessment of regulated financial institutions and market infrastructure providers, including in [Report 468](#) *Cyber resilience assessment report: ASX Group and Chi-X Australia Pty Ltd* (REP 468), [Report 555](#) *Cyber resilience of firms in Australia's financial markets* (REP 555), and [Report 601](#) *Market assessment report: Yieldbroker Pty Limited* (REP 601).

Analysis

- 68 For this assessment we reviewed the results of a NIST cyber self-assessment completed by BTA at ASIC's request as part of the market assessment process, along with reviewing documented policies and procedures. We also requested and reviewed supporting documentation and conducted further detailed inquiries through discussions with BTA and senior staff from BLP's Chief Information Security Office to clarify responses and seek further information.

- 69 BTA's responses to the NIST self-assessment placed them in the top tier of financial institutions and market operators that have been assessed by ASIC to date.
- 70 BTA's cyber resilience capabilities are provided by BLP through their existing intercompany arrangements, as part of a globally coordinated approach to cyber resilience adopted by BLP across all of its subsidiaries and affiliates.
- 71 BLP has adopted a 'follow the sun' model to ensure there is continuous oversight and monitoring of all potential threats and harms, and to enable all incoming events to be responded to in real time by a dedicated triage team which provides 24/7 coverage and support.
- 72 BLP ensures consistency across its various subsidiaries and affiliates through the implementation and maintenance of globally consistent policies covering areas such as information security, incident management, vulnerability assessments, disaster recovery, data privacy and records retention. We examined these policies and found them to be sufficient and adequate given the nature, size and complexity of the market operated by BTA in Australia.

Good practice—Cybersecurity strategy and governance

- 73 To ensure BTA is in line with other ASIC-regulated entities that are demonstrating best practice in this area, BTA may benefit from undertaking further work in relation to its governance of cybersecurity.
- 74 In REP 468 there are some useful examples of what good practice looks like in cyber resilience as well as what boards should be considering and how.
- 75 The good practices we observed in relation to cybersecurity strategy and governance were characterised by board 'ownership', and responsive and agile governance models: see REP 468.
- 76 Based on our review of documentation and discussions with senior staff from BLP's Chief Risk and Compliance Office and Chief Information Security Office we are satisfied that the level of board ownership and senior management engagement with cyber resilience issues across BLP and its various subsidiaries and affiliates is in line with the good practices observed in REP 468.
- 77 However, during the assessment period, we observed that reporting to and discussion of cyber-related matters with the BTA board as they related to BTA's licensed Australian market operations has been on an infrequent and ad hoc basis.
- 78 We note that we have reviewed a draft version of a dedicated information security policy (which the BTA board is currently finalising) that will cover the entirety of BTA's Australian operations. As part of this policy BTA's

Australian directors will have responsibility for conducting annual reviews of the effectiveness of the policy and providing oversight of any information security services and resources being provided to BTA through either intercompany arrangements or external vendors.

Assessment and findings

- 79 Overall, our assessment concluded that, during the relevant period, BTA met its statutory obligations to have sufficient resources for the management of cyber resilience and exhibited continual improvement.
- 80 Our review of the services provided by BLP to BTA for managing cyber resilience found them to be of a standard that was consistent with other large entities in the finance industry that provided centralised cyber resilience capabilities for their various subsidiaries and affiliates in different geographic regions. While the level of discussion and involvement related to cyber resilience at the BLP board level was in line with best practices outlined in REP 468, discussions by the BTA board in relation to cyber resilience and their ongoing AML obligations appeared to be undertaken on an irregular or ad hoc basis.
- 81 Table 5 sets out a summary of findings and recommendations in relation to BTA's cybersecurity posture.

Table 5: BTA cybersecurity posture

Finding	Recommendation
<p>There is scope for a more formalised governance process for technology and cyber resilience</p> <p>During the assessment period, reporting on technology and cyber resilience initiatives to the BTA board was done on an infrequent or ad hoc basis. A more formal framework for reporting on those areas will improve the board's ability to engage critically and strategically with them</p>	<p>The BTA board should develop procedures to ensure it has greater visibility and oversight of BTA's cybersecurity strategy. It should review the cybersecurity strategy on a periodic basis so that it remains fit for purpose and assess progress against success measures that are clearly articulated and defined</p>

Key terms

Term	Meaning in this document
AML	Australian market licence
ASIC	Australian Securities and Investments Commission
assessment period	21 December 2017 to 21 December 2018
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
BLP	Bloomberg L.P.
BTA	Bloomberg Tradebook Australia Pty Ltd
Ch 7 (for example)	A chapter in the Corporations Act (in this example numbered 7)
Corporations Act	<i>Corporations Act 2001</i> (Cth), including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
market licensee	Holder of an Australian market licence
NIST Cybersecurity Framework	US National Institute of Standards and Technology Cybersecurity Framework for critical infrastructure
Pt 7.2 (for example)	A part in the Corporations Act (in this example numbered 7.2)
reg 7.2.07 (for example)	A regulation of the Corporations Regulations 2001 (in this example numbered 7.2.07), unless otherwise specified
REP 468 (for example)	An ASIC report (in this example numbered 468)
RFQ	A request for quote
RG 172 (for example)	An ASIC regulatory guide (in this example numbered 172)
s794C (for example)	A section of the Corporations Act (in this example, numbered 794C), unless otherwise specified

Related information

Regulatory guides

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

Legislation

Australian Securities and Investments Commission Act 2001, s30

Corporations Act, Ch 7; Pt 7.2; s792A(c)–(d), 794C

Corporations Amendment (Financial Market Supervision) Act 2010

Corporations Regulations, reg 10.15.02

Reports

[REP 468](#) *Cyber resilience assessment report: ASX Group and Chi-X Australia Pty Ltd*

[REP 555](#) *Cyber resilience of firms in Australia's financial markets*

[REP 592](#) *Review of ASX Group's technology governance and operational risk management standards*

[REP 601](#) *Market assessment report: Yieldbroker Pty Limited*

Other publications

EU, [Market Abuse Regulation](#)

FICC Market Standards Board, [Behavioural cluster analysis: Misconduct patterns in financial markets](#)

FICC Market Standards Board, [Surveillance core principles for FICC market participants: Statement of good practice for surveillance in foreign exchange markets](#)

Global Foreign Exchange Committee, [FX Global Code](#)

[NIST Cybersecurity Framework](#)