

29 October 2025



Senior Manager, Markets Regulation
Markets Group
Australian Securities and Investments Commission
GPO Box 9827
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Via email: markets.consultation@asic.gov.au

Dear Sir or Madam,

The Australian Financial Markets Association (**AFMA**) is responding to ASIC's Consultation *CP 386 Proposed amendments to the ASIC market integrity rules: Trading systems and automated trading*. AFMA is supportive of the project to harmonise the Market Integrity Rules across the futures and securities rules where appropriate. We are also supportive of outcomes that see these markets consistent with international peers.

We are thankful for the removal of the AOP annual notification, and overall aim of greater consistency, most of the proposals align with international standards and are supported.

Our main concerns, which we hope are not the intention, are around the scope of the Trading System. On some readings this might extend into client-side algorithms not supplied by the broker. This would be highly disruptive to the futures markets as it would not support sponsored access.

Members are also concerned about the proposed requirement for real-time monitoring. This is not technically available from leading vendors in the futures market, or even in the securities market, and should be adjusted for the unavoidable practical delays at a minimum.

We see an opportunity for ASIC's Simplification agenda in relation to certification requirements. These could be moved to requirements to test and keep records rather than submitting certifications to ASIC.

In addition to the changes discussed in the paper we seek automatable rules for the implementation of market monitoring around DSP periods, and suggest updates, coordinated with Treasury in relation to the wash trade rules and greater clarity around UCP use.

We thank you for considering our comments and look forward to progressing the final version of this substantial reform in due course.

Sincerely,



Damian Jeffree

Head of Financial Markets, Exchanges and Digital

B1Q1 Do you agree with our definition of ‘Trading Algorithm’? If not, please give reasons why.

Refined definitions for key terms including ‘Trading Algorithm’ are perhaps the most important elements of the consultation to land correctly.

The proposed definition aligns closely with MIFID’s definition of ‘algorithmic trading’:

MiFID (39) ‘algorithmic trading’ means trading in financial instruments where a computer algorithm automatically determines individual parameters of orders such as whether to initiate the order, the timing, price or quantity of the order or how to manage the order after its submission, with limited or no human intervention, and does not include any system that is only used for the purpose of routing orders to one or more trading venues or for the processing of orders involving no determination of any trading parameters or for the confirmation of orders or the post-trade processing of executed transactions.

ASIC’s proposed definition:

...defin[e] ‘Trading Algorithm’ as: ‘a computer algorithm which automatically determines with limited or no human intervention, one or more parameters of an Order such as whether to initiate an Order, the timing, price or quantity of the Order or how to manage the Order after its submission, but does not include systems or processes used only:

- (i) for the purpose of routing Orders to one or more Trading Platforms
- (ii) for the submission of Orders involving no determination of any trading parameters;
- (iii) for producing confirmations of Orders; or
- (iv) for post-trade processing of executed transactions’.

We welcome that the proposed definition correctly descopes some non-algorithmic items that may separately be categorized as Trading Systems, including; smart order routers (SORs), execution management systems and post-trade processing systems reflecting the approach taken in other major jurisdictions.

AFMA requests that a number of similar items be specifically excluded:

- All DMA trading be specifically excluded. This specifically includes all client-side algorithms that are not supplied by the market participant.
- Purely administrative or routing tools.
- Simple time-sliced or pre-timed orders given de minimis complexity. For example, an ‘algorithm’ that schedules an order designated as Market on Open for a time before the relevant market’s opening time.
- That the definition, where it refers to trading parameters, links these to achieving specific execution outcomes (as it currently does in the algorithm definition in RG 241).

Generally, the 'timing, price or quantity' framing is supported, however, we would welcome confirmation that the timing here refers to initiating or managing orders to capture market opportunities during open hours, not simply holding orders for release at market open or close.

We also note that the definition for 'Trading Algorithm' should ensure that if a system is categorised as a Trading System, it should not also be categorised as a Trading Algorithm and vice versa. Members also note some ambiguity, on whether a Representative places an order into a 'Trading System' or 'trading platform'.

AFMA would welcome further dialogue with ASIC to ensure a common understanding of key terms such as 'trading parameter' and 'limited...human intervention'.

Client-side algorithms

On the need to exclude client algorithms not supplied by the broker, risks to the market associated with these are managed by the market participants' intermediating role in securities markets, with well-established filtering and monitoring protocols.

Under the Australian market's intermediated structure, market participants are responsible for overseeing orders sent to the market, but the structure maintains more flexibility for client firms, which may be global firms interacting with many different markets.

Use of the MIFID-style definition without descopeing client side could drive a major restructuring, particularly in futures, that would not be aligned with the approach taken in our competitor jurisdictions. This would be structurally disruptive, particularly as we will discuss in our response to later questions for 'sponsored access' in the futures markets.

We trust this interpretation is not intended but it does not appear clearly carved out in the current drafting.

B1Q2 Do you agree with our proposal to require a trading participant to:

- (a) have appropriate controls and governance arrangements for the development, approval, deployment, testing and monitoring of trading algorithms; and**
- (b) test trading algorithms; and**
- (c) have controls that enable immediate suspension or limitation of the operation of trading algorithms?**

If not, please give reasons why. Should these requirements extend to client algorithms?

AFMA agrees with the proposals for trading algorithm requirements for algorithms *developed by the market participant*. We consider these obligations to be consistent with good practice, aligned with international regulatory standards (e.g. MiFID II, HKMA and US regulatory expectations).

Commercial algorithms

For third party algorithms developed by commercial providers proportionate risk management is supported. It would be duplicative and thereby inefficient for each market participant to test these to the same extent as in-house developed algorithms, and third-party providers may not release source code. In some commercial products such as Trading Technologies multi-broker platform, the same algorithm is used to route to multiple participants. This architecture cannot be effectively tested by a single participant, only by the commercial provider.

MIFID II and RTS 6 explicitly recognizes that firms remain ultimately responsible for compliance with algorithmic trading requirements even when using third party systems. However, where the firm lacks direct control over those systems, ESMA allows compliance through some sort of *contractual mechanisms* requiring the third-party provider to commit to compliance with the regulatory standards. Thereby, ESMA recognizes the practical limitations of the use of third-party algos. We recommend ASIC takes a similar stance, not requiring direct technical control or code level oversight as it is not feasible, especially where firms use off the shelf vendor technology or hosted environments. Instead, compliance obligations can be satisfied through robust due diligence and contractual arrangements with vendors.

Client Algorithms

Consistent with our answer above, we do not believe it is appropriate to extend the requirements to client-side algorithms that are not provided by the market participant. Participants cannot reasonably oversee or test client-developed algorithms, as this would raise issues of proportionality, confidentiality, and practicality. Imposing such requirements would also create a situation where a participant's compliance with the Market Integrity Rules ('MIRs') would depend on its client's actions, making it difficult to establish a robust and auditable control framework.

Where clients utilize their own algorithms, those trading messages will be routed through Trading Systems owned by a Market Participant. These trading systems will ensure the trading messages generated by client algorithms are adequately controlled and governed through the Trading System requirements set out separately in the rules, to ensure that there is no impact to the efficiency and integrity of the market mitigating the need for additional practical due diligence.

Participants can suspend or limit client trading on a per client basis but cannot suspend or place limitations on the client algorithm given its potential location outside of their firms.

Allow for Supervised Junior Developers

To allow for development of less experienced staff, with respect to proposed MIR 5.6.3B(3) '*...the development and testing of the Trading Algorithm should be conducted by persons who are suitably qualified*' we suggest 'or supervised' be added to 5.6.3B(3) i.e '*...the development and testing of the Trading Algo should be conducted or supervised by persons who are suitably qualified.*'

Immediate Suspension

Members support a requirement that facilities for 'Immediate suspension' be built into participant-developed algorithms.

Client algorithms and their controls and information about which algorithm is generating which order sit on the client network and their connection to participant systems is generally via an order feed. It is as such not possible to control these algorithms, including via an algorithm-specific kill switch, from the participant side. Market participants can, however, disconnect client connections in response to issues with a client algorithm.

This can be done promptly with appropriate consideration by participants (and is inherently faster than endeavoring to sort out which client algorithm is causing issues), we note that disconnection of algorithms without proper consideration may not be the best option for market integrity.

We suggest that the definition of 'immediate' be tempered to 'promptly and without delay' as ASIC has done elsewhere in the MIRs, to take into account operational limitations and the need to make informed calls about whether an algorithm is in error, or merely following a fast market.

Particularly given the need to consider that disconnecting a client algorithm by a participant will potentially pull all of a client's orders from all of their algorithms and any manually entered orders, there is a need for care to be taken with these decisions for the interests of the broader market integrity and the interests of the client.

We note that smaller Market Participants would be more affected by the extension of a suspension requirement to commercially developed algorithms as they are more likely to use commercial products, may not be in a position to develop similar products in house, and commercially might not be in a position to demand additional features.

B1Q3 To what extent are your trading algorithms currently tested before use and before implementing a material change?

Members consistently report that Trading Algorithms are tested each time a material change to the Trading Algorithm is approved and implemented in production.

This approach is consistent with global practice and forms part of each firms' (typically global) policies, standards, procedures and governance processes for trading algorithms. These are designed to ensure adequate testing before use and before implementing material changes.

Testing follows a structured software development lifecycle, with multiple layers of review and defined governance forums for approval of new deployments or material changes. Material changes trigger proportionate re-validation and re-approval, including testing, documentation, and governance sign-off. Roll-back procedures, ongoing monitoring by trading, quantitative, and technology teams, as well as annual reviews and certifications, provide continuing assurance. Algorithmic activities are also generally required to follow a small flow rollout plan to detail phases of adoption, target dates, success criteria for promotion and minimum controls.

Key stages of this testing process include:

- Full testing in test environment to ensure new features operate as expected
 - Validation covering analytical and statistical performance, robustness under stress, and consistency between specification and build.
- Partial transfer to a production environment, limited scope of markets and products (this may include production testing in non-trading periods)
- Stepped roll out to production:
 - Small scale release to pilot user(s) for limited period
 - Further validation prior to extension to other markets

Commercial products

Where products are commercially developed, and deployed by market participants, a suitable risk management strategy should not require participants to redo core testing that can be contractually attested to by the vendor (and who would be best placed given their position as the developer to fully test the software). Participant testing might be limited to integration testing as applicable.

B1Q4 When would you consider a change to an algorithm to be material?

We suggest that ASIC provide high-level examples of material changes in future guidance (e.g. via updates to Regulatory Guides 265 and 266), while maintaining a principles-based approach that allows firms to apply proportionality in line with their size, business model, and algorithmic complexity.

While noting this, to respond to the question we note the types of changes to algorithms that firms consider material include change that significantly affect the algorithm's outputs, risk profile, or control environment. Factoring into this might be the relevant regulatory requirements, the firm's risk appetite, and potential financial, operational, reputational or regulatory consequences.

For example, material changes might include:

- Modification of the core functionality of an algorithm including its primary investment/execution objectives:
 - Significant changes to algorithm logic, methodology
 - Change to algorithm type
 - Addition or removal of decision(s) the algorithm makes
 - Additional client order types
- Expansion of the algorithm's scope:
 - Addition of products traded
 - Addition of a legal entity
 - Addition of a country or market traded
- Modification of an algorithm's control(s):
 - Addition or removal of a control
 - Modification of the applicability of a control

- Modification of the design or behaviour of the control
- Modifications that impact transparency or monitoring
- Changes requiring regulatory approval or notification, or that impact regulatory risk or compliance requirements.

We note that in the amended MIRs, the definition of 'material change' refers to subrule 5.6.8(1), which describes what needs to occur before making a material change, rather than further refining the concept of 'material'.

Changes that may be considered non-material include: changes to trading volume or P&L, technology releases that do not impact the algorithmic activity or documentation, addition of new instruments within an approved region and product class, or day-to-day strategy releases.

B1Q5 What standard of testing of trading algorithms should be required?

AFMA supports principles-based testing requirements that have the flexibility necessary to align with the risks of the particular product and market, keep current with technical innovations, and align with participant's internal policies and frameworks.

Participants should be free to determine their internal testing standards and procedures as long as that testing is able to evidence that trading algorithms have in place the appropriate controls. Testing procedures and standards may vary by institution depending on the type, nature and complexity of algorithms that are being used.

Banks typically have global frameworks for the development and testing of Trading Algorithms including associated policies and procedures and related documentation, as well as the review and approval of Trading Algorithms before their implementation and ongoing maintenance. These frameworks evolve over time with global best practice. ASIC should avoid risking prescribing testing specifics, particularly when Artificial Intelligence is likely to innovate in this area.

B1Q6 Do you agree with our proposal to require trading participants to maintain records of the matters referred to in Rule 5.6.3B(1) and (2) for a period of seven years. If not, please give reasons why.

To ensure the rule is applied consistently and proportionately AFMA supports a 7-year period for the maintenance of records related to core governance artefacts (e.g. testing reports, approvals, remediation records).

Currently, the proposed obligation is drafted in very broad terms, that could capture artefacts for real time monitoring, detailed change logs, test logs, system-level documentation, and implementation. This would be operationally challenging, particularly where system changes or migrations occur, and could generate large volumes of records with little utility, and the record keeping would generate substantial unwarranted costs.

These types of artefacts should be excluded from the proposed recordkeeping requirements.

B1Q7 If you are a trading participant, how will these proposed rules affect your business? Please provide an estimate of the time and costs to implement each proposed arrangement. In providing this estimate, please compare this with your expenditure on your current arrangements in relation to algorithmic trading.

Interpretation of the MIR rules will be a significant component of this effort, early publication of the associated guidance notes will minimize this effort and assist all participants in implementing enhancements in line with ASIC's intentions.

AFMA notes again our support for global consistency in ASIC's approach. Inconsistencies are not desirable as they add complexity and reduce sustainability. Where the new MIR proposals require additive controls, these would likely impact consistency with global standards.

General comments

The effort to implement these changes represents a significant undertaking. Even where existing policies might meet or exceed the requirements there will need to be a robust gap analysis performed. There are significant time and other costs associated with these changes e.g. review of the rule changes and gap analysis with existing frameworks and arrangements from a technology, business, and compliance perspective. Where gaps are identified, preparation and implementation of changed or new policies, processes and documentation will be required, including adherence to internal governance arrangements. Additional IT uplift, either internally or by third party vendors, can also take significant lead time and entail costs that most often require exceptional Senior Management approvals.

B2Q1 Do you agree with our proposed definition of 'Trading System', which means 'any system for submitting Trading Messages into a Trading Platform'? Please give your reasons why.

On some readings AFMA sees this definition as excessively broad, and that would benefit from refinement.

Read as referring to any system at the last step that connects directly to a trading platform and sends trading messages as defined by that trading platform to that platform, the definition would be supported.

We are concerned, however, with the potential of some readings to push this out to any system within the multiple component systems, that has any role connected in some way to that last step system. This could capture multiple upstream systems and components, including GUIs, that are used in the user interface elements of systems that ultimately submit a Trading Message. That interpretation would render the definition unfocussed, uncertain and unworkable.

To address this risk, rather than referring to 'any system', we prefer a definition that references a single, last line system as a 'Trading System'. This should be the final line system(s), which could include situations where Representatives place Trading Messages directly to market to achieve the neutrality sought by ASIC, at the Trading Participant that submits a Trading Message to a Trading Platform.

Guidance should provide for the ability of participants to determine what the boundary around these last line Trading Systems are, for the purposes of the MIRs (and certification with ASIC), to be able to include those components a Market Participant considers critical and not require certification of every underlying component (which may be considered a 'system' under internal classifications) e.g. for order origination, FIX connectivity, pre-trade controls, and the algorithm engine.

B2Q2: Do you agree with inserting the terms 'Trading System' and 'Trading System Requirements' to replace the AOP-related definitions in Rule 1.4.3? Please give your reasons why.

AFMA supports inserting these terms to replace the AOP definitions to update the regulations and improve consistency.

B2Q3 Do you agree with our proposal to have a single set of trading system obligations for both manually submitted trading messages by a representative and automated trading of securities participants? If not, please give detailed reasons why.

AFMA is broadly supportive of this change as regardless of how a trading message is submitted a trading message should have sufficient controls to ensure 'fair and orderly' trading, noting that 'fair and orderly' needs to be flexible enough to sensibly adjust for contract liquidity, message to trade ratio etc.

However, AFMA would suggest that the control requirements should continue to be flexible principles-based to allow different market participants to meet these requirements in different ways depending on the types and volume of flows they support.

We also note that firms are interested in understanding how the greater flexibility that is necessary (particularly during times of market stress and technical issues) for trading representatives (formerly DTRs), will be accommodated under the combined rules. To deal with dislocated markets, systems with errors, situations where orders need to be worked, or when exceptions apply, these trading representatives sometimes need highly flexible access.

We also request that 'Representative' be explicitly defined to not extend to clients who are submitting orders via DMA through a trading systems (including on swap), in light of the proposed changes to extend DTR obligations to any representative that submits a trading message into a trading platform.

B2Q4 Do you agree with our proposal to retain and move elements of 'DTR' in Part 2.5 to Part 5.5 (see amended Rule 5.5.1)? If not, please give detailed reasons why.

AFMA is generally supportive of this proposal but to reduce the prescriptive nature of the rules, we suggest that the below requirement should not be retained:

has demonstrated to the Trading Participant knowledge of the Dealing Rules governing the process of dealing and reporting Market transactions on the Trading Platform of that Market, and the relevant practices of the operator of that Market.

As there are existing, more general requirements, which Participants are required to meet which cover this requirement, including:

- the same MIR rules: a requirement that a representative who submits trading messages is suitably qualified and experienced to perform that function;
- the general licensing obligations under s912A, which require licensees to
 - o have adequate resources to provide the financial services covered by the licence;
 - o maintain the competence to provide those financial services; and
 - o ensure that its representatives are adequately trained, and are competent, to provide those financial services.

We also note a potential small typo in the numbering under subrule (2) of 5.5.1 of the proposed Securities MIRs (starting at (b), instead of (a)).

B2Q5 If you are a trading participant, how will these proposed changes affect your business? Please provide an estimate of the time and costs to implement these new arrangements. In providing this estimate, please compare this with your expenditure on your current arrangements.

The proposed changes for Trading Systems will have minimal impact to the business for securities markets as the definition of Trading System encompasses the same scope as AOP Systems. Some uplift will be required to conduct a gap analysis against the amended rules and to align documentation and testing to the new rules.

Extensive analysis may be required where members are relying on external vendors.

Please also see our *General comments* response to B1Q7.

B2Q6 Do you have any other feedback in relation to the Securities Rules relating to trading systems and automated trading?

ASIC has raised concerns around the use and ‘misuse’ of the Unintentional Crossing Protection (UCP) tool. We request further information on how these concerns fit with the Market Integrity Rules.

B3Q1 Should testing proposed in Part 5.6 be independently validated? If so, should independent validation of testing be conducted internally or by a suitably qualified third party?

AFMA does not support ASIC introducing a requirement for testing to be independently validated.

Participants require discretion for how testing, including validation, of systems and models, and changes to those systems and models, occurs as:

- Participants are best placed to consider, for example, the materiality of a change and the cost and practicality implications of different types of validation in the circumstances of their business and

the relevant systems. Mandating independent validation (particularly if this is by a third-party) would introduce significant costs and delays without commensurate benefits, particularly for global firms that already operate robust internal frameworks, including QA processes, and have in-house expertise.

- It is critical that trading systems and algorithms are able to be agile and to be updated to reflect changing market conditions. Imposing onerous external testing obligations would hamper the ability for participants to adjust models in a timely fashion.

We also note that algorithms have been successfully in use in the Australian market for many years now and are governed by existing AOP requirements to ensure they do not interfere with the efficiency and integrity of the market, and that there are appropriate controls in place. The proposed testing requirements, while more prescriptive, would seem to duplicate these existing obligations under Securities MIRs 5.6.1 and 5.6.3.

Where participants use common systems, the requirements should support efficient common testing by vendors etc.

Market Participants typically conduct internal testing by teams that are separate from system developers, and view that there is sufficient independence in this process. The involvement of a third party unfamiliar with the particular Trading Systems would likely result in inferior testing processes and delay deployment due to additional confirmation requirements.

Further, the cost of third-party independent validation, to firms that maintain a large inventory of algorithms, would be high and potentially restrict the development and deployment of automated trading and algorithmic trading tools.

B3Q2 If you are a trading participant, how will these proposed changes affect your business? Please provide an estimate of the time and costs to implement these new arrangements. In providing this estimate, please compare this with your expenditure on your current arrangements.

The initial certification of trading systems can be manual and duplicative where there exist third party systems that are widely used across market participants that generally offer standard control offerings and partner with participants to conduct stress, capacity and vulnerability testing.

Please see our *General comments* response to B1Q7.

B3Q3 Do you have any other feedback in relation to the Securities Rules relating to trading systems and automated trading?

It is worth noting that the administrative and operational overhead of meeting both the current and proposed future certification requirements is far greater than those of comparable markets in the region. A Trading Participant is responsible for ensuring that its activities do not breach the MIRs. This is understandable and reasonable. The Certification/Annual Review/Material Change Certification rules are

effectively requirements in relation to how a participant must ensure it does not breach MIRs. If a Participant has adequate financial, technical and human resources to comply with the MIRs in general it should have the capability to design its own process for ensuring its Trading System is appropriate.

B4Q1 Do you agree with our proposal? Please give your reasons why.

AFMA is of the view that the proposed amendments to Rule 5.6.4 to 5.6.8A would be overly prescriptive and could add complexity and unnecessary procedures that deviate from existing governance framework without improving safety, governance, or enhancements to change management and do not improve overall governance. The proposed requirement in relation to material changes, as currently drafted, do not limit what '*controls, arrangements and resources in relation to the Trading System*' are required to be assessed. This presents practical challenges for participants.

A principle-based rule requiring Trading Participants to authorise, test, document and keep records of Trading Systems before use or material changes where relevant would better meet regulatory goals.

We support the deletion of Rules 5.6.8B and 5.6.11.

B4Q2 Do you agree with our proposal to specify that, as part of the internal certification, material change and annual review, testing by a trading participant of its controls, arrangements and resources should also be included? Please give your reasons why.

We submit that 'arrangements and resources' should not be included. These are generic terms and without further refinement, participants and ASIC may have different views about what is in scope. We note that review of 'policies, procedures, system design documentation and other relevant documentation' is separately required.

Including testing results of controls, arrangements and resources adds complexity with little benefit, as external parties may find the test reports challenging to interpret. Scenarios could readily arise where this could create undue strain on resources where changes impact multiple trading systems or multiple changes occur within a shortened period of time. AFMA suggests that each trading participant should determine the testing that is applicable and therefore required for each internal certification, material change and annual review.

B4Q3 If you are a trading participant, how will these proposed changes affect your business? Please provide an estimate of the time and costs to implement these new arrangements. In providing this estimate, please compare this with your expenditure on your current arrangements.

Material Change Review

AFMA suggests that it is not necessary to specify a 10 business day timeframe for a written statement to be made by a responsible officer.

Where appropriate testing, governance and approvals have taken place, the requirement for each change to be certified by written statement within a reasonable time from completion should be sufficient.

AFMA suggests that review of controls, arrangements, resources, policies, procedures, and system design documentation should not be required for all material changes and that the review should focus on the portion of the controls, resources or procedures that are changing.

Annual Review:

AFMA suggests that it is not necessary to specify a 10 business day timeframe for a written statement by a responsible officer. AFMA suggests that the requirement for an annual review to include a written statement from a responsible officer, should be sufficient.

Please also see our *General comments* response to B1Q7.

B4Q4 Do you have any other feedback in relation to the Securities Rules relating to trading systems and automated trading?

AFMA is supportive of:

- changing the requirement that 2 directors make an attestation for the initial certification and annual review, to one responsible officer (however, please note comment below);
- removing the ASIC notification requirement; and
- changing the timeframe for the annual review to be once every 12 months as opposed to in November each year to provide Participants greater flexibility to align their review with internal processes.

These changes will have a modest reduction in regulatory burden.

We would also appreciate clarification from ASIC as to whether *officer* in the definitions of *responsible officer* proposed for both rulebooks has the meaning given by s9AD of the Corporations Act. This would mean that, in effect, the person or people that could provide the required statements must be:

- a) a director or secretary of the corporation; or
- b) a person:
 - i. who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation; or
 - ii. who has the capacity to affect significantly the corporation's financial standing; or
 - iii. in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation);

For brevity, we also propose the following edits:

- to Rule 5.6.6(2)(g) of the Securities MIRs:
... officer who has responsibility for a function of the Trading Participant's business that uses the Trading System ~~of the Trading Participant~~ (**responsible officer**)...
- to Rule 2.2B.6(2)(g) of the Futures MIRs:
... officer of the Trading Participant who has responsibility for a function of the Trading Participant's business that uses the Trading System ~~of the Trading Participant~~ (**responsible officer**)...

B5Q1 Do you agree with our proposal to insert proposed Rule 5.6.3A? If you are a trading participant, do you already have in place monitoring systems that would satisfy the proposed rule?

We recognise ASIC's objective of ensuring robust monitoring of algorithmic trading activity. While Market Participants have controls in place to identify and prevent orders from being sent that would cause market disruptions, the section 5.6.3A (1)(a) requirement for 'real-time' monitoring should be amended to near-real time or contemporaneous monitoring. This would cater for inherent latency of systems and timelines for the generation of alerts. Market Participant monitoring systems in the securities market (not futures) would satisfy the proposed rule in some circumstances, but not all.

AFMA would like to highlight that assessment and disposition of trading messages identified in near real-time will likely not occur in real-time. For instance, where a near real-time alert is generated and notified to the responsible party, the review of those alerts may occur throughout the remainder of the trading day or on T+1. This would be a standard way to incorporate such monitoring of orders and trades into the trading risk management function within the firm's First Line of Defence under the Three Lines of Defence risk management framework.

Additionally, there may be a significant uplift to implement a consistent alerting platform, particularly for vendor-owned trading systems. While a market participant may have some functionality to generate near real-time alerts, integrating this consistently across orders processed in third party platforms will require significant time for implementation.

AFMA notes that proposed Rule 5.6.3A overlaps with existing requirements under the MIR, including Rule 5.5.2 on organisational and technical resources, Rule 5.6.1 on the responsible use of AOP and Rule 5.6.3 on AOP system requirements. These rules will continue to require participants to maintain appropriate automated filters and ensure that system use does not interfere with market efficiency or the proper functioning of trading platforms.

In response to these and other regulations appropriate monitoring and control frameworks are already embedded within participants' AOP/trading system and risk management processes. We therefore query the need for a separate monitoring obligation, as this may create duplication without materially enhancing market integrity.

Particularly given ASIC's Simplification Agenda we recommend ASIC ensure that a new rule is not created that overlaps with existing and continuing requirements. Any move toward continuous real-time monitoring would represent a significant uplift in infrastructure and cost for the Australian market.

B5Q2 If you are a trading participant, how will these proposed changes affect your business? Please provide an estimate of the time and costs to implement these new arrangements. In providing this estimate, please compare this with your expenditure on your current arrangements

The proposed changes would require a self-assessment of Trading Systems and Trading Messages that fall under the scope of the amended rules. Market Participants expect that new monitoring tools or systems would be required to satisfy the proposed rule and that additional, ongoing resourcing would be required to review and assess the identified trading messages.

Defining the requirements for new near real-time monitoring alerts, development and deployment are likely to take up to 6 months.

B5Q3 Do you have any other feedback in relation to the Securities Rules relating to trading systems and automated trading?

No further comments.

B6Q1 Do you disagree with any of these consequential amendments? Please give your reasons why.

AFMA does not have objections to the proposed changes but do note that the wording in 4.1.1(g) may be tightened.

We also note that there is scope to consolidate Rules 5.6.1 and 5.6.3 i.e. it is through the controls listed under 5.6.3 that 5.6.1 is achieved.

B6Q2 If you are a trading participant, how will these proposed changes affect your business? Please provide an estimate of the time and costs to implement these new arrangements. In providing this estimate, please compare this with your expenditure on your current arrangements.

Please see our *General comments* response to B1Q7.

B6Q3 Do you have any other feedback in relation to the Securities Rules relating to trading systems and automated trading?

No further comments.

B7Q1 Do you agree with our proposal? Please give reasons for your answer.

AFMA generally agrees with the proposal.

The change of emphasis of Part 5.7.2 (*Circumstances of Order*), reframes the rule from a consideration to an obligation. We note there is no equivalent of the Part 5.7.2 *in the* UK rule (Ch 2, Market Abuse Regulation).

AFMA suggests it would be preferable if the proposed catch-all in 5.7.2(l) were redrafted to read, 'any other matter *that the Market Participant considers* relevant' or 'any other relevant matter considered reasonable in the circumstances'.

B7Q2 If you are a market participant, how will these proposed rule changes affect your business? Please provide an estimate of the time and costs to implement these rule changes. In providing this estimate, please compare this with your expenditure on your current arrangements.

Please see our *General comments* response to B1Q7.

C1Q1 Do you agree with our proposal to harmonise trading system obligations across securities and futures participants? Please give reasons for your answer, having regard to the proposals that we have outlined in Section B of this paper.

While AFMA is generally supportive of harmonisation where suitable, the specific differences between markets mean harmonisation is not always appropriate. The securities and futures markets have different infrastructure, participants, purposes and importantly competition (internationally). The proposed rule changes will impact futures market participants by increasing their operational and administrative compliance burden and make a market that is already comparatively less attractive to service/participate in than international equivalents, less attractive still.

Most critically for futures markets is our concern that the definition of Trading System does not extend into client-side systems (other than those developed by the participant).

If this were to be the case then sponsored access would no longer be viable in the Australian futures markets. This would risk substantial damage to these markets.

The optimum solution would be to specifically carve out the application of the rules to sponsored access in the Futures market or create a specific subset of MIRs that specifically address sponsored access and obligations of Market Participants in this context.

The futures markets, as we have discussed with ASIC over recent years, are vulnerable to the potential of withdrawals of liquidity and clearers. This is not an academic matter – futures pricing provides the market signal for investment in clean energy, battery storage, and other real-life infrastructures.

It should not be assumed that clients denied sponsored access would simply apply for exchange membership. While some may, many likely would not.

It is very important that sponsored access remains viable for the futures markets in Australia.

On a more technical matter AFMA also suggests explicit indemnity for ASIC MIR 3.1.8 on withholding an order when done so for the purpose of ensuring a fair and orderly market. This indemnity should extend and also apply when done so for the purpose of assessing whether an order may create a false and misleading appearance. Given the wording of a revised MIR 3.1.2 on the factors that must be considered there is potential for transmission of instruction to not be immediate and hence be misconstrued as potential withholding.

Some proposed changes require further clarification from ASIC and are raised in this response to ensure practical implementation.

We note that Futures Market Participants face substantial changes to accommodate the harmonisation, however it proceeds in its details. We would appreciate open engagement with ASIC, as futures participants map and/or uplift their existing arrangements to align with these changes.

Futures Market Participants seek clarity on whether ASIC intends to expand RG 241 (Electronic Trading) to participants of the ASX 24 market and whether if extended it is expected to be updated.

Please refer to our responses in regard to questions in Section B of the paper for other specific concerns.

C1Q2 Are there any additional rules or obligations that should apply specifically to the futures markets? Please give reasons for your answer.

No.

C1Q3 Are there any proposed rules or obligations that should not apply to the futures markets? Please give reasons for your answer.

Please note our response to C1Q1 in relation to our concern that the definition of Trading System does not extend into client-side systems. We see this as the most significant rule that should not apply to futures markets.

PTRM

It is the norm in comparable futures markets globally for the Trading Platform to have Pre-Trade Risk Management (PTRM) functionality embedded. ASX24 is no different. In most comparable futures markets, Trading/Clearing Participants are able to utilise this functionality in order to manage their risk. Allowances in the Rules should be made to incorporate the usage of the Trading Platform's PTRM functionality to meet the obligations of the Trading Participant. This is inline with market norms in markets outside of Australia and ensures a level playing field for all participants.

Initial Certification

Building on a point made in respect of Section B, as a live example, multiple firms utilise the Trading Technologies vendor product TT to connect to the trading platform. It would be inefficient to require TT to be certified to ASIC by all market participants. Vendors such as Trading Technologies should be able a

certification with the individual market participants internally assessing their alignment with control, procedure and governance requirements.

In relation to Market Participant developed algorithms we request confirmation that an Initial Certification is not required for current AOPs that are in use (noting slight differences in information required in new Initial Certification).

Material Change Reviews

Testing of pre-trade filters should not be required for all material change reviews given limits are applied at a client/instrument level and are often housed in vendor systems and with the market operator.

Vendor stress and capacity tests

Additionally, vendor systems may not always be able to facilitate *ad hoc* stress and capacity testing for multiple participants that are using their product. In other jurisdictions, testing requirements for the system may be made via attestation by the vendor system provider as it may not be feasible to share results across all market participants.

C1Q4 Do you agree with introducing Rule 2.2B.3 to explicitly require futures participants to have adequate monitoring systems to enable the trading participant to conduct real time and post trading monitoring? Please give reasons for your answer.

We note ASIC's proposal to introduce Rule 2.2B.3 requiring futures participants to have adequate monitoring systems. The proposed drafting closely mirrors Rule 5.6.3A for securities participants, and we consider that the issues raised in our response to question B5Q1 are equally relevant here.

In addition, we note that most participants rely on a vendor product for trade surveillance. SMARTS, which is a vendor surveillance platform used by much of the industry, does not currently offer real-time monitoring capabilities for the Futures product, which is largely conducted on T+1.

At a minimum the drafting should accommodate this particularly as enquiries have determined that real time surveillance is not within the vendor's strategic direction for the product for now. We suggest the requirements for surveillance should also consider the nature, scale and complexity of Market Participant's business.

While real time surveillance has some advantages, the realities of the alert review processes, including investigating, escalating and taking appropriate action to respond to the potentially manipulative behaviour limits the practical benefit. Real Time monitoring has limited value from a market behaviour/surveillance perspective. Determining the impact and appropriate response to a particular market behaviour requires analysis and consideration, often in relation to historical/previous circumstances. Performing this analysis on a T+1 basis should be sufficient and would be in line with expectations in other comparable markets.

Participants would welcome a dialogue with ASIC on this point.

The main prevention for real-time issues are pre-trade controls such as fat finger, position limits, price deviation controls to ensure the integrity of the market. These controls are blocking controls, that help to ensure that there are no market integrity issues.

Market Participants also note, consistent with the points raised previously, they require further clarification from ASIC in relation to their expectations on real-time monitoring to detect manipulative trading practices under proposed Rule 2.2B.3 (1)(b), to be able *to identify a Trading Message or series of Trading Messages that may have created, or may have been intended to create the appearance described in Rule 3.1.2, having regard to the matters set out in Rule 3.1.2A*. To be practical for the modern marketplace that has large numbers of orders and trades where timing is critical, the clarification must enable participants to automate the monitoring.

In addition, some of the matters set out in Rule 3.1.2A look for patterns such as a series of orders/trades that have been entered into over a period of time, these cannot reasonably be achieved in real-time, and requiring this surveillance function to be conducted on a real time basis may be detrimental to its effectiveness.

Recent cases in illiquid futures have not provided Market Participants with clearly automatable rules for market surveillance. ASIC points to a variety of indicia which if seen in a combination should trigger a manual review of order flow for compliance. However, in a modern marketplace rules need to be automatable in order to cope with the volume of order and trade flow in a timely way reflecting the nano-second basis of modern trading. We respectfully request automatable rules for monitoring orders and trades during DSP periods.

C1Q5 Do you agree with our proposal to require futures participants to undertake initial certification (before using a trading system), annual and material change reviews of their trading systems (see proposed Rules 2.2B.5 to 2.2B.9)? Please give reasons for your answer.

Futures Participants already have an obligation to ensure that its Trading System does not operate in a way contrary to the MIRs. MIRs already impose various strict obligations for participants to have robust Trading Systems and ongoing monitoring to prevent market manipulation and to maintain fair and orderly market. If the participant has the adequate resourcing and controls it is obliged to and then it should be able to determine the most suitable way for it to ensure that its Trading System operates appropriately.

The Certification process for both securities and potentially now futures does not materially improve the control framework that a participant would have in place however does materially increase the administrative and operational overheads. The implementation of a Certification process in the Futures markets would push Australia's regulatory regime further way from the norm in futures.

The Australian futures markets already suffer from a lack of participants, this additional overhead can only increase the barriers to entry for further growth. Additionally, in the low latency space only providers with existing critical mass will be able to invest in a platform to meet certification requirements and provide the processing speed to support client needs. This could well lead to significant concentration similar to what we see in the securities markets already. This structure also makes no accommodation for the PTRM

that is provided by the ASX on the trading platform. Allowing use of this PTRM more fulsomely would ensure a level playing field for all participants which is the case in many comparable (and larger) markets globally.

AFMA would prefer less overly prescriptive rules to reduce unnecessary red tape. Rather than submitting initial certifications to ASIC and awaiting confirmation of compliance, principles-based rules should require Market Participants to authorise, test, and keep records of their Trading Systems—both initially and after material changes. This would achieve the regulatory goals while allowing businesses flexibility.

The operational burden of certification with ASIC is significant as participants are trading global exchanges and Australia is the only major market that requires this. Aligning with international standards would be a significant opportunity for ASIC's Simplification agenda.

Participants are interested in more information on how 'class of Trading Messages' in (2)(a) would apply to futures markets.

We understand that existing trading systems that are already being used, will be grandfathered in without an initial certification review under the new system.

We request similar grandfathering be granted for Futures Participant algorithms. These algorithms have been successfully risk managed under the existing regime and have the benefit of the real world test of production deployment. There is no risk reason why these should require initial testing.

For vendor developed systems Market Participants should be able to rely on vendor attestations in relation to testing.

As with our position in relation to securities rules futures Market Participants should be able to take a practical assessment to determine whether a change, or a series of changes is material, having regard to the nature, scale and complexity of the business being conducted through the trading system. Principles-based guidance on what constitutes a 'material change' to a system would assist participants in making these determinations.

C1Q6 Do you agree with our proposal to introduce testing and responsibility requirements regarding the use of a trading participant's algorithm (see proposed Rule 2.2B.4)? Please give reasons for your answer.

We are supportive of ASIC's proposal to introduce testing and responsibility requirements regarding the use of a trading participant-developed algorithms, however, there needs to be a clear distinction between these algorithms and those developed by clients of participants.

As we noted in Section B, ASIC should consider following MIFID II and RTS 6 which explicitly recognises that participants may lack direct control over third party algorithms and should allow participants to comply with the requirement through some sort of contractual mechanisms requiring the third-party providers to commit to compliance with the regulatory standards.

For client-side algorithms, it is critical for futures that these are not captured and that the sophisticated protections for market integrity that are provided by Market Participants remain the risk management tool.

C1Q7 If you are a futures trading participant, how will these proposed rules affect your business? Please provide an estimate of the time and costs you will incur to implement the proposed rules. In providing this estimate, please compare this with your expenditure on your current arrangements.

With the exception of the clarification we seek from ASIC, in relation to real-time monitoring of manipulative behaviour, the key scope of work to implement Part 2.2A (Trading Management Arrangements) and Part 2.2B (Trading System Requirements) will involve:

- Demonstrating through documentation how existing global arrangements comply with ASIC's proposed requirements, including (but not limited to) appropriate governance, oversight, ownership of responsible officer(s) who are qualified and experienced in the controls and systems to make the required certifications under the proposed rules.
- Where gaps have been identified, implement processes, procedures and controls to address these gaps.
- Training of team members on new requirements and potentially extensive system enhancements.

It is difficult to estimate the additional cost that these rules will bring other than to say it will be material. Should participants choose not to support sponsored market access this would create substantial work for clients motivated to become direct participants.

Please see also our General comments response to B1Q7.

C2Q1 Do you agree with our proposal to update and harmonise the record keeping requirements in the Futures Rules (see proposed Rules 2.2.4 to 2.2.4E)? Please give reasons for your response.

AFMA generally supports the harmonisation of all requirements across rule sets.

However, some order records may not currently be possible and may require third party vendor uplifts – e.g. the method of taking orders and further review time is required to ensure that all proposed fields can be effectively captured.

More specifically, we seek clarification on the following across client (2.2.4) and proprietary order records (2.2.4A):

- Rule 2.2.4(1) of the proposed '*...whether or not a Trading Message corresponding to that instruction is entered into or matched on a Trading Platform of a Market.*'

- Does this mean RFQ / expressions of interest? (we note that RFQ's are not systematically recorded in the execution platform if they are not to be executed – i.e. when participants do not win the trade).
- Rule 2.2.4(2)(b) – we note some differences with the Securities MIRs remain, e.g. reference to a Client ID. This may no longer be required given the harmonisation efforts, and if it is then the distinction from 'account number' should be made clear.
- 2.2.4(c) – it is possible that the order instructions are placed by someone different to the order placer. Is it the intention of ASIC to capture both persons or rather the primary client Representative?
- 2.2.4(d) and (e) – please provide guidance around 'capacity' in the sentence '*the name and capacity of any Representative of the Market Participant*'.

We also note that the sub-sections of Rules 2.2.4(2)(e) and 2.2.4A(2)(e) require renumbering.

In relation to order record requirements and Error Trades (Rule 2.2.4B) and the expectation to immediately make the record after the event (under Rule 2.2.4D). Recording of Error Trades is a manual process and typically recorded on the relevant trading date to which the error relates. We suggest it should be made clear this is consistent with Rule 2.2.4D.

In relation to recording the capacity of representatives as Agency and principal, we query whether there is a distinct need for this record in the Futures market. Capacity can generally be derived by considering the role of the trader or the account on which they trade.

C3Q1 Do you agree with our proposal? Please give reasons for your answer.

We agree ASIC's proposed amendments to Rule 3.1.2 and 3.1.2A provides some level of increased clarity to the scope of the false and misleading rules, however, we propose that 3.1.2A(l) be updated to read: *any other relevant matter considered reasonable in the circumstances*.

Further, ASIC MIR 3.1.2 (False and Misleading Appearance) and ASIC MIR 2.2.1 (Limits) are the drivers of significant uncertainty at present. The regulatory expectations and requirements need to be more clearly built out in ways that are readily implementable with modern technology.

It would be helpful to be provided with sample scenarios where a person/client has acted on behalf of another person with the intention of creating a false or misleading appearance.

We note however, it will generally be impossible for Trading participants to ascertain the intention of the underlying client when there is no direct relationship with the trading participant. In practice this will limit the potential to prevent trading based on the client's intention.

C3Q2 If you are a market participant, how will these proposed rule changes affect your business? Please provide an estimate of the time and costs to implement these rule changes. In providing this estimate, please compare this with your expenditure on your current arrangements.

Please refer to our feedback provided on C1Q4 relating to real-time monitoring of manipulative behaviour.

Market Participants are concerned that it might not be possible to support broker clients that send trades via an omnibus structure, with the current drafting. This risks a reduction in participation of market participants in ASX24, and a lowering of liquidity and traded volume.

Please see also our General comments response to B1Q7.

D1Q1 Do you agree with the 12-month transition period. In your response, please provide detailed reasons for your answer.

ASIC should provide a minimum 24-month transition period. The proposed changes under CP 386 are extensive and significant work will be required by Market Participants to:

- Update policies, procedures, frameworks and training materials;
- Engage with multiple teams internally;
- Effect any technology changes (including market mandatory) which will require sufficient lead time, budget and Senior Management approvals, both globally (for foreign ADIs) and locally. For global firms, electronic trading functionality is often developed to suit multiple markets and development teams and resources are shared regionally and/or globally. Work will be required to deploy changes to cater to additional regulatory nuances being introduced into the Australian market; and
- Work with any third-party vendors.

More specifically, greater focus will be required:

- For futures participants with the significance of the rule changes in relation to Trading Systems, and
- In relation to any required uplift in monitoring.

Assessment and implementation of the changes will be heavily reliant on IT and technology subject matter experts, whose books of work, including internally and externally-drive projects are largely set more than 12 months ahead. For example, an upgrade to IRESS IOS+ is scheduled for mid-2026, as is ASX SR 16, requiring significant resources. It is unclear what features of IOS+ can be used to assist with the compliance of the proposed MIRs, the transition period should factor this in.

It is important that efficiencies are found where possible and that sufficient time is allowed for implementation. Implementation would also be greatly assisted by ASIC clarifying industry questions and publishing updated regulatory guidance for the topics / areas requested at a minimum one year prior to effective date.

A two-year timeframe is consistent with APRA's CPS230, which also required changes as outlined above.

Alternatively, ASIC may consider a phased implementation approach based on further industry consultation as to where the most uplift is required in order to remain compliant.

RG 266 updates should be finalized before the build period commences. Changes to rules should not be enforced until guidance is finalised and participants have had time to implement changes.