

ENFORCEABLE UNDERTAKING

Corporations Act 2001 (Cth)

Regulation 7.2A.01

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (**ASIC**) by:

Life Trading Pty Ltd
ACN 603 549 748
502/22 Central Ave, Manly NSW 2095
(**Life Trading**)

1. Definitions

In addition to terms defined elsewhere in this undertaking, the following definitions are used:

ASIC Act means the *Australian Securities and Investments Commission Act 2001 (Cth)*.

ASX means Australian Securities Exchange Limited (ACN 000 943 377).

ASX 24 Market means the financial market operated by ASX 24 under the *Australian Market Licence (Australian Securities Exchange Limited) 2002*.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Corporations Regulations means the *Corporations Regulations 2001 (Cth)*.

Deficiencies include a gap, risk, weakness and/or defect identified by the independent expert during the assessment and report period.

Final Report means the written report prepared by the independent expert as required under clause 3.4.

Futures MIRs means *ASIC Market Integrity Rules (Futures Markets) 2017*.

Market Participant means a participant within the meaning of paragraph (b) of the definition of "participant" under section 761A of the Corporations Act.

Markets Disciplinary Panel means a peer review panel, the members of the which constitute a Division of ASIC as delegates of the members of the Division.

Summary Report means a written summary of the content of the Final Report prepared by the independent expert as required under clause 3.4.

Supervisory Policies and Procedures means the supervisory policies and procedures implemented by Life Trading, in accordance with Futures MIR 2.2.8, to ensure compliance with the Futures MIRs and the Corporations Act.

2. BACKGROUND

ASIC's role

- 2.1 Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

Life Trading

- 2.2 Life Trading became an ASX 24 Principal Trading Participant on 28 January 2019. Its principal activities were proprietary trading (i.e. trading on its own behalf and not on behalf of clients) in futures contracts on the ASX 24 Market. The main futures contracts it traded were Share Price Index futures (SPI futures), 10-year Commonwealth Treasury Bond futures, 3-year Commonwealth Government Bond futures and 90-day Bank Accepted Bill future.
- 2.3 From February 2020, Life Trading became a Corporate Authorised Representative of an AFSL holder and authorised by them to deal in Equity Swaps on behalf a single wholesale client.

ASIC's concerns

- 2.4 ASIC has investigated Life Trading's compliance with the Futures MIRs. As a result of its investigation, ASIC is concerned that between 28 January 2019 and 4 June 2020 (**Relevant Period**), Life Trading did not have appropriate Supervisory Policies and Procedures, including policies relating to record-keeping requirements.
- 2.5 As a result of its investigation, ASIC is concerned that Life Trading may not have complied with its obligations during the Relevant Period under:
- (a) Futures MIR 2.2.8, which relates to the requirement for Market Participants to have appropriate Supervisory Policies and Procedures; and
 - (b) section 798H(1) of the Corporations Act which requires Market Participants to comply with the Futures MIRs.
- 2.6 On 25 March 2021, the Markets Disciplinary Panel decided that it had reasonable grounds to believe that Life Trading had contravened Rule 2.2.8 of the Futures MIRs.
- 2.7 On 25 May 2021, ASIC issued an infringement notice to Life Trading under regulation 7.2A.04 of the Corporations Regulations (**Infringement Notice**).
- 2.8 The Infringement Notice required Life Trading to give an undertaking to ASIC under regulation 7.2.A.01 of the Corporations Regulations on the terms set out below.
- 2.9 To comply with the Infringement Notice, Life Trading has offered, and ASIC has agreed to, the undertakings set out below.

3. Undertakings

- 3.1 Life Trading undertakes to request ASIC to approve, within 15 business days of the date that ASIC accepts this enforceable undertaking (or within such longer period as may be agreed by ASIC and Life Trading):
- (a) the appointment of an independent expert that meets the criteria in subparagraph 3.3; and
 - (b) draft terms of engagement for that independent expert that meet the requirements of paragraph 3.4.
- 3.2 If ASIC approves the draft terms of engagement and the independent expert following a request by Life Trading under subparagraph 3.1, Life Trading undertakes to appoint the

approved independent expert on the terms approved by ASIC within 10 business days of receiving ASIC's approval (or within such longer period as may be agreed by ASIC and Life Trading).

- 3.3 Life Trading undertakes to nominate, under sub-subparagraph 3.1(a), an independent expert who, in Life Trading's opinion:
- (a) has the necessary expertise, experience and operational capacity to perform the role contemplated by this enforceable undertaking; and
 - (b) is independent of Life Trading, its related bodies corporate and its officers at the time of appointment, and who will at all material times be capable of exercising objective and impartial judgement.
- 3.4 Life Trading undertakes to ensure the terms of the independent expert's engagement provided to ASIC for approval under sub-subparagraph 3.1(b):
- (a) require the independent expert to:
 - (i) review and give a written Final Report and a Summary Report on whether, in the opinion of the independent expert, Life Trading has appropriate Supervisory Policies and Procedures to ensure compliance by Life Trading and each person involved in its business as a Market Participant with the Futures MIRs, the operating rules of each market of which it is a Participant, and the Act;
 - (ii) review Life Trading's Supervisory Policies and Procedures for the period from 1 July 2020 to 30 April 2021, taking into account ASIC Regulatory Guide 266: *Guidance on ASIC market integrity rules for participants of futures markets* at RG 266.94 – RG 266.96; and
 - (iii) give the written Final Report and Summary Report to Life Trading and ASIC by 31 August 2021 (or such later date as may be agreed by ASIC and Life Trading) on the outcome of the review, including identifying any Deficiencies in Life Trading's Supervisory Policies and Procedures and, where Deficiencies in Life Trading's current Supervisory Policies and Procedures are identified, making recommendations for how to remedy those Deficiencies;
 - (b) include a statement to the effect that the work of the independent expert is being carried out for Life Trading and ASIC and acknowledging that ASIC is relying on the work of the independent expert;
 - (c) include a statement that upon request by ASIC, ASIC is to be copied into all or some communications between Life Trading and the independent expert;
 - (d) require the independent expert to notify ASIC where a conflict of interest arises during the engagement or when the independent expert becomes aware of information that adversely affects its ability to exercise objective and impartial judgment; and
 - (e) include an acknowledgement that, in relation to the written Final Report and Summary Report to be given to ASIC and Life Trading, ASIC may from time to time publicly refer to the content of the report, and may make the Summary Report or a statement that refers to the content of the report public.
- 3.5 Life Trading undertakes to decide by 30 September 2021 (or such later date as may be agreed by ASIC and Life Trading) whether to implement a recommendation made in the written report and:

- (a) if Life Trading decides not to implement a recommendation—by that date to give a written explanation to ASIC of the reasons for that decision; and
 - (b) if Life Trading decides to implement a recommendation—by that date to notify ASIC of a timeframe for when it will be implemented.
- 3.6 Life Trading undertakes to:
 - (a) acting reasonably, implement all recommendations that it decides to implement within the timeframes notified to ASIC; and
 - (b) notify ASIC when such recommendations have been implemented.
- 3.7 Life Trading undertakes to permit the independent expert to have reasonable access to Life Trading's systems and records, and to interview persons involved in its business, for the purposes of enabling the expert to carry out the review and prepare the report.
- 3.8 Life Trading undertakes to give the independent expert any information or explanation reasonably requested by the independent expert of any matter connected with the review and report.
- 3.9 Life Trading undertakes to pay the costs of its compliance with this enforceable undertaking.

4. **Acknowledgements**

4.1 Life Trading:

acknowledges that ASIC can make publicly available the following information:


- (i) a copy of this enforceable undertaking;
- (ii) a copy of the Summary Report; and
- (iii) a summary of which recommendations of the independent expert that Life Trading decided to implement, or not implement (and reasons);

excluding information of which ASIC is satisfied would be unreasonable to make publicly available because it would unreasonably affect the business, commercial or financial affairs of Life Trading otherwise than in a way that arises from the outcomes of the undertaking; and

acknowledges that:

- (i) ASIC will from time to time publicly report about compliance with the enforceable undertaking; and
 - (iv) the enforceable undertaking has no operative force until accepted by ASIC.
- 4.2 Life Trading and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.
- 4.3 Nothing in this undertaking constitutes an admission by Life Trading or its related bodies corporate, or their past or present respective directors, officers, or employees.

EXECUTED by **LIFE TRADING PTY LTD**
in accordance with s 127(1) of the
Corporations Act 2001




Signature of director

JAMES COGNER

Name

21/06/21

Date



Signature of director/company secretary

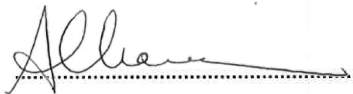
ADRIAN SWAN

Name of director/company secretary

21/6/2021

Date

**Accepted by the Australian Securities and Investments Commission under reg 7.2A.01 of
the Corporations Regulations 2001 by its duly authorised delegate:**


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Delegate of Australian Securities and Investments Commission

Date accepted by ASIC: 21 June 2021