



**ASIC**

Australian Securities & Investments Commission

## REPORT 296

# ASIC supervision of markets and participants: January to June 2012

August 2012

Note: This report was reissued with minor amendments in August 2012.

### About this report

This report summarises key operational statistics and outcomes of ASIC's market and participant supervisory functions in relation to ASX, ASX 24 and other market licensees for the period 1 January to 30 June 2012.

A summary of ASIC's markets-related enforcement outcomes, for the period 1 January 2011 to 30 June 2012, is provided in Section D of the report.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Previous reports on ASIC supervision of markets and participants

Report number	Report date
REP 277	February 2012, reissued with minor amendments in August 2012
REP 243	July 2011
REP 227	January 2011

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# Overview

## ASIC supervision of markets and participants

ASIC is responsible for the supervision of holders of Australian market licences (market licensees). We conduct real-time surveillance of equities trading on the ASX and (since 31 October 2011) Chi-X markets, and we supervise compliance in those markets with the *Corporations Act 2001* (Corporations Act) and ASIC market integrity rules. We also seek to ensure that Australian financial services (AFS) licence conditions are met by market participants.

Our core objective, in the supervision of market licensees, is to promote investor confidence that our markets are fair and efficient. This requires our market infrastructure to be robust; trading, clearing and settlement of transactions to be orderly and efficient; and market misconduct to be minimised. We continue to do this through ongoing engagement with stakeholders, the surveillance of markets and market participants, education, guidance, and our enforcement activities.

We are committed to reducing the incidence of market misconduct by:

- ensuring that market participants have appropriate controls or filters on the orders placed into the market in accordance with required standards;
- supervising markets and market participants to detect market misconduct quickly; and
- conducting timely investigations of market and market participant misconduct, resulting in significant penalties where appropriate.

This report summarises key operational statistics and outcomes of our market and market participant supervisory functions in relation to ASX, ASX 24 (previously the Sydney Futures Exchange) and other market licensees for the reporting period 1 January to 30 June 2012.

## Key outcomes

Section A outlines key outcomes achieved during the period. Of particular note is that two people agreed to plead guilty to insider trading after discussions with ASIC, and that we issued four infringement notices for breaches of the continuous disclosure provisions of the Corporations Act.

## Market surveillance and supervision

Section B provides details of our real-time market surveillance and supervision activity for the period 1 January to 30 June 2012. During this time, there were 22,225 trade surveillance alerts. We conducted enquiries into 114 market matters. A total of 36 matters were referred to ASIC's Enforcement team for formal investigation. We also engaged with market participants in relation to unsatisfactory market matters on 14 occasions, including raising concerns about potentially disruptive execution strategies, and algorithmic trading issues.

Issues arising from high-frequency trading, and algorithms generally, are still a concern. In particular, we have detected a number of deficiencies in market participants' filters that have resulted in temporary disruption to the market.

We will continue to monitor markets for compliance with rules relating to high-frequency trading and algorithms, and where necessary we will take enforcement action. We continue to consider this area as part of the consultation process on Consultation Paper 168 *Australian equity market structure: Further proposals* (CP 168) and Consultation Paper 179 *Australian market structure: Draft market integrity rules and guidance* (CP 179).

There were eight referrals to Enforcement from the Wholesale Markets team for alleged breaches of the ASIC Market Integrity Rules (ASX 24 Market) 2010.

Note: In this document 'ASIC Market Integrity Rules (ASX 24)' refers to the ASIC Market Integrity Rules (ASX 24 Market) 2010.

## Supervision of market participants

Section C summarises our market participant supervision activity for the period 1 January to 30 June 2012. This includes surveillance,<sup>1</sup> monitoring and remediation work, and risk-based assessment visits.<sup>2</sup>

For the first time, this report includes some information on our reviews of securities dealers—AFS licensees who are not market participants but sell their securities products through a market participant. We propose to include this information in future reports, separately from market participants.

Section C also summarises market participant compliance applications, waivers, notifications and exemptions. In this reporting period, we received a

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<sup>1</sup> The term 'surveillance' is used to refer to the process of gathering and analysing particular information on a particular market participant or other relevant entity. We conduct surveillance to assess and enforce compliance with financial services laws and ASIC market integrity rules to produce constructive change by all market participants and to promote public confidence in Australia's financial markets and its participants.

<sup>2</sup> Risk-based assessments are an analysis of the business of a licensee, the risks inherent in its business model and how it is managing those risks.

total of 162 applications<sup>3</sup> from market participants (four were already open as at 31 December 2011) and 156 notifications<sup>4</sup> (eight were already open as at 31 December 2011). We completed 166 participant applications and 154 notifications. One market participant matter was referred to our Enforcement team for formal investigation. An issue of concern was an increase in misleading statements in advertising, some of which were required to be removed. Further details are found in Section C.

## Markets-related enforcement outcomes

Section D summarises our markets-related enforcement outcomes from 1 January to 30 June 2012. Reporting against this timeframe takes into account the time required to conduct an investigation and undertake court actions. The report compares the two six-month reporting periods to 31 December 2011 to that covered in the previous report. Section D also provides an overview of key enforcement outcomes from the current six-month reporting period.

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<sup>3</sup> This includes accredited derivatives adviser (ADA) accreditation, reaccreditation, exemptions and business connections consents.

<sup>4</sup> 'Notifications' includes professional indemnity insurance, responsible executive changes and ADA withdrawals.

## A Market and participant supervision: Key outcomes

Table 1 summarises the markets enquiries and Enforcement team referrals from our market and participant supervision activities.

**Table 1: Enquiries and Enforcement team referrals**

Outcomes (number of matters)	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2011	1 Jan–30 June 2012
Enquiries: markets trading	121	131*	114*
Enforcement referrals: markets trading	35	23	36
Enforcement referrals: market participants	8	7	6
Enforcement outcomes <sup>†</sup>	3	8	5

\* These figures include formal enquiries using our coercive powers and informal enquiries.

† See Section D for details regarding specific outcomes.

### Main issues: Enquiries and Enforcement team referrals

The main issues for each type of outcome in Table 1 were:

- for enquiries (markets)—potential market misconduct matters, including insider trading, market manipulation and market integrity rule breaches identified by the Market Surveillance team;
- for Enforcement referrals (markets)—potential insider trading, breaches of market integrity rules and market manipulation; and
- for Enforcement referrals (market participants)—breaches of market integrity rules, misleading and deceptive conduct, and the provision of inappropriate advice.

One of the benefits of ASIC taking on responsibility for market supervision continues to be the reduced time taken to commence investigations from the first indication of suspicious market conduct. The duplication of enquiry between ASX and ASIC has been removed. We continue to build on the results achieved in the first 17 months of supervision. Of the 111 market matters referred to Enforcement since ASIC assumed responsibility for market supervision on 1 August 2010, investigations formally commenced for 33 of these matters within 30 days of detection, included in a total of 75 out of 111 investigations that were commenced within 60 days of detection.

Insider trading detection, investigation and prosecution continue to be a priority for ASIC. Thirteen of the market matters referred to Enforcement during the latest reporting period related to insider trading: see Table 5. This is up from the six for the previous period.

As in previous reporting periods, we continue to see trading activity that points to the potential misuse of confidential information by persons employed by companies that provide advice on mergers and acquisitions and other significant corporate transactions. This also includes individuals employed by organisations such as investment banks, consultancy firms and other firms that are privy to confidential information before transactions are publicly announced.

There has also been an increase in detection of breaches of the market integrity rules, with these accounting for 15 of the 36 referrals to Enforcement. The key market integrity rule issues continue to relate to trading that has the potential to create false and misleading appearances, and the appropriateness of controls relating to automated order processing (AOP). Details and commentary on investigation outcomes, for the period 1 July 2010 to 30 June 2012, are contained in Section D of this report.

Problematic algorithms and the impact of high-frequency trading algorithms continue to be of concern. In particular, wash trades (which occur when both sides of the trade are on behalf of the same account) are a significant obstacle in maintaining fair and orderly markets. We are actively engaging with market participants on managing wash trades in the coming months.

We continue to work with market participants to ensure, especially in the case of faulty or anomalous algorithms, that corrective action is taken as soon as possible and the impact on market integrity is minimised. Importantly, this engagement with market participants does not replace any kind of Enforcement action. If warranted, we will take action against a participant whose system or actions interfere with market integrity.

## Main issues: Remedial and pre-emptive action

Table 2 summarises the concluded remedial and pre-emptive actions from 1 January to 30 June 2012.

**Table 2: Remedial and pre-emptive action**

Outcomes	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2011	1 Jan–30 Jun 2012
Pre-emptive action (guidance to prevent potential misconduct)	22	21	14
Remediation (agreed compliance actions)	13	11	17

In our market participant surveillance, which includes both market participants and other securities dealers, we continue to focus on the adequacy of supervision of client trading and the mis-selling of securities and other financial products as a result of misleading advertising.

## B Market surveillance and supervision

This section provides details of our real-time market surveillance and supervision activity, preliminary and formal enquiries, and pre-emptive supervision action for the period 1 January to 30 June 2012.

### Real-time surveillance of Australia's licensed financial markets

ASIC's Market Surveillance team uses the SMARTS trade surveillance system, internally developed market monitoring tools, and information provided by the market and other ASIC stakeholder groups to identify possible market misconduct matters.

Trade surveillance alerts are indicators of unusual trading activity. During the reporting period, there were 22,225 alerts compared to 20,029 alerts generated during the previous reporting period: see Table 3. The number of alerts continues to be affected by a range of factors, including general market volatility, the level of corporate transactions and trading conditions generally. Alert numbers have increased slightly, and can be attributed to new alerts and parameters introduced as a result of market competition in October 2011.

**Table 3: Trade surveillance alerts, preliminary enquiries and referrals to Enforcement team**

Surveillance activity	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2012	1 Jan–30 June 2012
Total number of alerts	23,494	20,029	22,225
Markets enquiries conducted	121	131	114
Referrals to Enforcement team	35	23	36

### Markets enquiries

Enquiries are conducted where our market surveillance analysts are not able to explain an alert or a series of alerts by reference to available market information, including media, internet chat sites, broker research and dialogue with brokers. Enquiries now also incorporate those matters previously referred to as 'formal enquiries'—where the Market Surveillance team uses the compulsory powers available to ASIC to obtain evidence of market misconduct, which may result in a referral to Enforcement for formal investigation.

In the course of our market enquiries, we may use our compulsory powers to obtain information from participants, clients, listed entities, and corporate and other advisers. There were 114 such enquiries undertaken during this reporting period, compared with 131 markets enquiries in the previous period: see

Table 4. While the number of enquiries has fallen slightly, the number of referrals to Enforcement has increased for the period, reflecting the team's focus on serious market misconduct matters that warrant a referral to Enforcement.

The number of potential 'other market offences' has increased, reflecting an increased focus on ensuring compliance by market participants with all market integrity rules. A prominent example is unauthorised trading.

We are working closely with ASX in identifying and investigating possible breaches of the continuous disclosure requirements. The number of continuous disclosure related enquiries fell in the period.

**Table 4: Markets enquiries**

Alleged offence	Previous periods		Current period
	Number of enquiries (1 Jan–30 June 2011)	Number of enquiries (1 July–31 Dec 2011)	Number of enquiries (1 Jan–30 June 2012)
Insider trading	81	74	63
Market manipulation	33	25	28
Continuous disclosure	25*	10 <sup>†</sup>	9
Other market offences	9	22	14
<b>Total</b>	<b>148</b>	<b>131</b>	<b>114</b>

\* Nine enquiries were commenced during the period as a result of continuous disclosure referrals from ASX.

<sup>†</sup> Five enquiries were commenced during the period as a result of continuous disclosure referrals from ASX.

We have referred five matters relating to possible market manipulation breaches to Enforcement for investigation in this reporting period.

The referrals to Enforcement also included eight from the Wholesale Markets team for alleged breaches of the ASIC Market Integrity Rules (ASX 24).

**Table 5: Market matters referred to Enforcement for investigation**

Alleged offence	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2011	1 Jan–30 June 2012
Insider trading	17	6	13
Market manipulation	6	5	5
Continuous disclosure	2	3	3
Breach of market integrity rules	10	9	15
<b>Total</b>	<b>35</b>	<b>23</b>	<b>36</b>

## Pre-emptive supervision action

One of our objectives is to try to change behaviour by providing guidance before misconduct occurs. An important part of our supervisory role is to prevent disorderly markets and market misconduct through active dialogue with market participants. Table 6 summarises the instances where our discussions with participants have led them to amend order execution methods and to review their trading algorithms. This proactive role is essential in improving participant conduct and preventing potentially serious misconduct, and complements our ongoing deterrence role in relation to more serious misconduct.

We continue to identify issues with exchange-traded funds (ETFs), although their frequency is falling. For example, we continue to identify instances of ETFs trading at a price significantly above or below the underlying indices. In response to ASIC questioning, several market participants have agreed to put in place new filters and processes to ensure that such orders, usually initiated by online retail clients, are reviewed by a designated trading representative (DTR) before being released to the market.

**Table 6: Pre-emptive supervision action**

Pre-emptive action relating to:	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2011	1 Jan–30 June 2012
Execution strategy	7	10	10
Algorithmic trading and filter issues*	14	7	5
Other	1	4	1
<b>Total</b>	<b>22</b>	<b>21</b>	<b>16</b>

\* We amended this category in the period 1 July–31 December 2011 to include filter issues associated with algorithmic trading.

We encourage market participants to raise any trading issues or concerns at an early stage. The Market Surveillance team may be contacted via the hotline and the markets email address:

Hotline: 1300 029 454

Email: [markets@asic.gov.au](mailto:markets@asic.gov.au)

## C Supervision of market participants and securities dealers

This section summarises our supervision activity of market participants and securities dealers from 1 January to 30 June 2012.

### Compliance activity

Table 7 details market participant compliance activity. ASIC also found six securities dealers who were not adequately checking if their advisers were selling clients securities that were appropriate or suited to their personal circumstances.

We have conducted a number of proactive reviews of securities dealers. Several of these reviews resulted in outcomes, including warning letters, referrals to Enforcement and referrals to the ASIC's Participant Compliance team, often due to concerns about adequacy of supervision.

Our surveillances revealed that mis-selling of securities and other financial products was occurring as a result of misleading statements in advertising. This advertising was found to either incorrectly suggest that products offered high returns or to make claims that suggested investments were low risk when they were not. In the period, five securities dealers agreed to remove misleading statements from their websites, advertisements or other marketing material. In some cases, misleading statements were found to also be made by several of their authorised representatives across various websites.

The surveillances have resulted in several securities dealers agreeing to improve their supervision for instances of market manipulation, insider trading and disorderly trading in securities.

We also conducted a number of risk-based assessments of securities dealers. Of these, more than 40% resulted in a referral to other ASIC teams for further consideration, including the Participant Compliance team and the Consumers and Retail Investors team.

Table 8 notes that 25 AOP certifications were received between 1 January and 30 June 2012. This is a fall from 59 in the previous reporting period. This is due to the large number of connections to Chi-X in the previous period. The number of certifications is now consistent with the trend of previous periods. Applications and notifications to ASIC for the period included the renewal of accredited derivatives advisers (ADAs) and the updating of management structures. In accordance with the market integrity rules, market participants must submit details of their management structures when there has been a material change.

**Table 7: Participant compliance—Key activity summary**

Compliance activity	Previous periods						Current period			
	1 Jan–30 June 2011			1 July–31 Dec 2011			1 Jan–30 June 2012			
	Outstanding at 1 Jan 2011	New	Completed	Outstanding at 1 July 2011	New	Completed	Outstanding at 31 Dec 2011	New	Completed	Outstanding at 30 June 2012*
Surveillance (includes business-as-usual equities and futures participants, reactive, proactive and targeted)	40	85	61	64	72	77	59	78	64	73
Monitoring and remediation	12	8	6	14	5	14	5	5	5	5
Risk-based assessment visits	11	47	38	20	41	61	0	31	22	9
Industry presentations	–	2	2	–	5	5	–	21	21	–

\*Matters 'Outstanding at 30 June 2012' represent the opening balance at the beginning of the reporting period (i.e. matters 'outstanding at 1 January 2012') plus 'new' matters less 'completed' matters.

**Table 8: Participant compliance applications, waivers, notifications and exemptions**

Applications, waivers, notifications and exemptions	Previous periods						Current period			
	1 Jan–30 June 2011			1 July–31 Dec 2011			1 Jan–30 June 2012			
	Outstanding at 1 Jan 2011	New	Completed	Outstanding at 30 June 2011	New	Completed	Outstanding at 31 Dec 2011	New	Completed	Outstanding at 30 June 2012*
Applications <sup>†</sup>	4	232	234	2	245	243	4	162	166	0
Waivers requested (ASX) <sup>‡</sup>	1	1	1	1	3	4	0	3	2	1
Waivers requested (ASX 24) <sup>‡</sup>	1	5	5	1	7	6	2	3	3	2
Waivers requested (Chi-X) <sup>#</sup>	–	–	–	–	1	1	0	0	0	0
Relief applications <sup>‡</sup>	6	11	11	6	14	15	5	15	11	9
AOP certifications received (includes significant changes)	0	30	29	1	59	57	3	25	24	4
Notifications (includes professional indemnity insurance, responsible executive changes and ADA withdrawals)	85	181	258	8	385	385	8	156	154	10

\* Applications, waivers, notifications and exemptions 'outstanding at 30 June 2012' represent the opening balance at the beginning of the reporting period (i.e. 'outstanding at 1 January 2012') plus 'new' applications, waivers, notifications and exemptions matters less 'completed' applications, waivers, notifications and exemptions.

<sup>†</sup> This includes ADA accreditation, reaccreditation, exemptions and business connections consents.

<sup>‡</sup> Waivers relate to ASIC market integrity rules and relief applications relate to the Corporations Act.

<sup>#</sup> The Chi-X Australia market commenced operations on 31 October 2011.

## Referrals and complaints about participants

The teams also reviews referrals from ASIC's Misconduct and Breach Reporting division, which receives complaints or questions from the public. The following specific referrals were reviewed between 1 January and 30 June 2012:

- four complaints made by the public about securities dealers and market participants;
- three Corporations Act breaches that were self-reported by market participants;
- two Corporations Act breaches that were reported by the auditors of market participants relating to the actions of the market participants; and
- two market integrity rule breaches that were self-reported by market participants.

Between 1 January and 30 June 2012, the Market Participants teams reviewed three referrals from ASX and 12 market integrity rule notifications that were made about trust account deficiencies.

## Enforcement referrals

The teams are continuing to focus on key areas such as market integrity rule compliance, unauthorised discretionary trading, managed discretionary accounts, compliance monitoring and adequacy of management supervision. Table 9 lists the market participant matters referred to Enforcement. The focus for this period has been on markets matters, and 36 matters were referred in that area: see Table 5.

**Table 9: Market participant matters referred to Enforcement for investigation**

Alleged offence	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2011	1 Jan–30 June 2012
Adviser: unauthorised trading	1	–	–
Breach of market integrity rule:			
• order records	–	1	–
• adviser accreditation	1	–	–
• clients' segregated accounts	2	–	1
• no responsible executive	–	1	–
Supervision of representatives	3	–	–
Participant: Corporations Act misconduct	1	–	–

Alleged offence	Previous periods		Current period
	1 Jan–30 June 2011	1 July–31 Dec 2011	1 Jan–30 June 2012
Misleading and deceptive conduct	–	1	–
Inappropriate advice	–	1	–
<b>Total</b>	<b>8</b>	<b>4</b>	<b>1</b>

Work on unauthorised discretionary trading and protection of clients' money remains a high priority for the Market Participants teams and is an issue that continues to be closely monitored. Breaches of the market integrity rule related to clients' segregated accounts similarly continues to be an area that ASIC takes close interest in.

The Market Participants teams may be contacted via the hotline and the Market Participants email address:

Hotline: 1300 029 454

Email: [market.participants@asic.gov.au](mailto:market.participants@asic.gov.au)

## D Markets-related enforcement outcomes

This section provides a summary of ASIC's markets-related enforcement outcomes from 1 January to 30 June 2012 and provides a comparison against the two staggered (by six months) two-year periods to 30 June 2012. Given the time taken to identify and investigate cases, the two-year reporting period provides a better trend indication of our deterrence outcomes.

### Investigation and enforcement outcomes

Table 10 details significant market integrity-related outcomes for the period 1 July 2010 to 30 June 2012 compared to the preceding two-year period ending 31 December 2011. It includes a 'snapshot' of the outcomes for the current six-month period ending 30 June 2012.

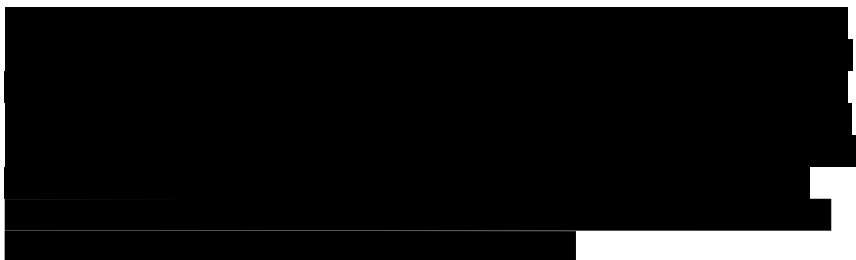
**Table 10: Investigation and enforcement outcomes**

Significant market integrity-related outcomes	Previous two-year period	Current two-year period	
	1 January 2010– 31 December 2011	1 July 2010– 30 June 2012	1 January– 30 June 2012
Bannings	2	2	–
Insider trading pleas, verdicts and judgements	10	8	–
Continuous disclosure infringement notices	3	7	6
Other sanctions (enforceable undertakings and pecuniary penalties)	4	5	3
Market manipulation pleas, verdicts and judgements	5	3	–
<b>Total</b>	<b>24</b>	<b>25</b>	<b>9</b>

Details of the nine outcomes reported for the six-month period in Table 10 can be summarised as follows:

- *Continuous disclosure infringement notices:* Six infringement notices were issued to four different entities. Two entities were issued notices for \$33,000, one entity was issued a notice for \$66,000 and three notices (totalling \$300,000) were issued to another single entity.
- *Other sanctions:* There was an enforceable undertaking requiring a company to engage an independent external consultant to review its financial reporting and disclosure systems.

- *Markets Disciplinary Panel*: The Markets Disciplinary Panel (MDP) issued two infringement notices with penalties of up to \$35,000.



## Infringement notices

For the six-month period 1 January–30 June 2012, the following infringement notices were served:

- BioProspect Limited has paid a \$33,000 penalty to comply with an infringement notice issued by ASIC alleging the company had contravened the continuous disclosure provisions of the Corporations Act (see ASIC Advisory ([12-42AD](#)) *BioProspect complies with ASIC infringement notice for alleged continuous disclosure breach* (8 March 2012));
- BC Iron Limited has paid a \$66,000 penalty to comply with an infringement notice issued by ASIC alleging the company had contravened the continuous disclosure provisions of the Corporations Act (see ASIC Advisory ([12-43AD](#)) *BC Iron complies with ASIC infringement notice for alleged continuous disclosure breach* (8 March 2012));
- Leighton Holdings Limited has paid a total penalty of \$300,000 to comply with three infringement notices issued by ASIC alleging the company had contravened the continuous disclosure provisions of the Corporations Act. ASIC has also accepted an enforceable undertaking from Leighton that commits the company to reviewing its disclosure practices (see Media Release ([12-53MR](#)) *Leighton Holdings complies with three ASIC infringement notices for alleged continuous disclosure breaches and ASIC accepts compliance enforceable undertaking* (18 March 2012)); and
- Navigator Resources Limited has paid a \$33,000 penalty to comply with an infringement notice issued by ASIC alleging the company had contravened the continuous disclosure provisions of the Corporations Act (see Media Release ([12-130MR](#)) *Navigator Resources complies with ASIC infringement notice for alleged continuous disclosure breach* (15 June 2012)).

Under s1317DAJ(3)(b)(v) and (vi) of the Corporations Act, compliance with the infringement notice is not an admission of guilt or liability and the disclosing entities are not taken to have contravened the provision(s) specified in the notice.

## Markets Disciplinary Panel

For the six-month period 1 January–30 June 2012, the following infringement notices were issued by the MDP:

- Nomura Australia has paid a \$30,000 penalty to comply with an infringement notice given to it by the MDP, for the entry of two orders to sell the security, Alumina Limited (AWC), that allegedly resulted in the market for AWC not being both fair and orderly (see ASIC Advisory ([12-59AD](#)) *Nomura Australia Limited pays \$30,000 infringement notice penalty* (30 March 2012)); and
- Commonwealth Securities Ltd has paid a penalty of \$35,000 to ASIC in order to comply with an infringement notice given to it by the MDP, for the entry of an erroneous priority crossing in the security, OZ Minerals Limited (OZL), that allegedly resulted in the market for OZL not being both fair and orderly (see Media Release ([12-107MR](#)) *Commonwealth Securities Limited pays \$35,000 infringement notice penalty* (28 May 2012)).

Under reg 7.2A.15(4)(b)(ii) of the Corporations Regulations 2001, compliance with the infringement notice is not an admission of guilt or liability and neither entity is taken to have contravened s798H(1) of the Corporations Act.

## Key terms

Term	Meaning in this document
ADA	Accredited derivatives adviser
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services  Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act  Note: This is a definition contained in s761A of the Corporations Act.
algorithm/algorithmic trading	Electronic trading activity where specific execution outcomes are delivered by predetermined parameters, rules and conditions
AOP (automated order processing)	The process by which orders are registered in a market participant's system, which connects it to a market. Client or principal orders are submitted to an order book without being manually keyed in by an individual (referred to in the rules as a DTR). It is through AOP systems that algorithmic programs access our markets
ASIC	Australian Securities and Investments Commission
ASIC Market Integrity Rules (ASX 24)	ASIC Market Integrity Rules (ASX 24 Market) 2010—rules made by ASIC under s798G of the Corporations Act for trading on ASX 24
ASX	ASX Limited (ACN 008 624 691) or the exchange market operated by ASX Limited
ASX 24	The exchange market formerly known as Sydney Futures Exchange, operated by Australian Securities Exchange Limited
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
Chi-X	Chi-X Australia Pty Ltd (ACN 129 584 667) or the exchange market operated by Chi-X
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
DTR (designated trading representative)	A representative of the market participant that has been authorised by the participant to submit trading messages to the trading platform on behalf of the participant
enforceable undertaking	An enforceable undertaking that may be accepted by ASIC under reg 7.2A.01 of the Corporations Regulations 2001

Term	Meaning in this document
equity market products	Shares, managed investment schemes, the right to acquire by way of issue shares and managed investment schemes, and CHESS Depository Interests admitted to quotation on ASX
financial market	As defined in s767A of the Corporations Act. It encompasses facilities through which offers to acquire or dispose of financial products are regularly made or accepted
high-frequency trading	While there is not a commonly agreed definition of high-frequency trading, we characterise it as: <ul style="list-style-type: none"> <li>• the use of high-speed computer programs to generate, transmit and execute orders;</li> <li>• the generation of large numbers of orders, many of which are cancelled rapidly; and</li> <li>• typically holding positions for very short time horizons and ending the day with a zero position</li> </ul>
infringement notice	An infringement notice issued under reg 7.2A.04 of the Corporations Regulations 2001
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
market licensee	Holder of an Australian market licence
market manipulation	As defined in Pt 7.10 of the Corporations Act
market participant	An entity that is a participant of a financial market on which equity market products are quoted
MDP (Markets Disciplinary Panel)	ASIC's Markets Disciplinary Panel, through which ASIC exercises its power to issue infringement notices and to accept enforceable undertakings in relation to breaches of the market integrity rules
securities dealer	AFS licensee who is not a market participant but sells securities products through a market participant
surveillance	Refers to the process of gathering and analysing particular information on a particular market participant or other relevant entity. ASIC conducts surveillance to assess and enforce compliance with financial services laws and ASIC market integrity rules to produce constructive change by all market participants and to promote public confidence in Australia's financial markets and its participants