



## Australian Market Licence (FinClear Pty Ltd) 2024

*Corporations Act 2001*

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I, Amanda Zeller, Senior Executive Leader, Australian Securities and Investments Commission grant this Licence under subsection 795B(1) of the *Corporations Act 2001* (the Act) and impose conditions on this Licence under subsection 796A(1) of the Act.

Dated 11 September 2024

A handwritten signature in black ink, appearing to read 'Zeller', written in a cursive style.

Signed

as a delegate of the Minister under section 1101J of the Act

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## 1. Name

This Licence is the *Australian Market Licence (FinClear Pty Ltd) 2024*.

Note: This instrument should be read in conjunction with the Corporations (FinClear Pty Ltd) Exemption Notice 2024.

## 2. Commencement

This Licence commences when it is granted.

## 3. Definitions

In this Licence, unless the contrary intention appears, terms defined in the Act have the same meaning in this Licence and:

*Act* means the *Corporations Act 2001*.

*continuous trading market* means a financial market where orders are processed immediately upon receipt and are able to be matched continuously throughout the trading session.

*FCX operating rules* means rules made by the Licensee pursuant to section 793A of the Act.

*Licensee* means FinClear Pty Ltd ACN 607 164 714.

*Market* means the financial market, known as FCX Liquidity Venue as at the date the Licence is granted.

*reporting period* means each period of 3 months, or part thereof, during which the Market is operated ending on 31 March, 30 June, 30 September, or 31 December.

*retail client* a person is a *retail client* in relation to the Market if a financial service provided to the person in relation to the trading or proposed trading of a financial product by the person on the Market is or would be provided to the person as a retail client (within the meaning of sections 761G and 761GA of the Act).

*retail participant* means a participant that is a retail client in relation to the Market.

*wholesale client*: a person is a *wholesale client* in relation to the Market if the person is not a retail client in relation to the Market.

*wholesale participant* means a participant that is a wholesale client in relation to the Market.

Note: the following terms are defined in the Act:

- (a) ASIC;
- (b) CS facility licensee;
- (c) deal;
- (d) financial product;
- (e) financial market;
- (f) financial service;

(g) licensed market;

(h) participant.

#### **4. Grant of Licence**

This Licence is granted to the Licensee under section 795B of the Act and authorises the Licensee to operate the Market.

#### **5. Classes of financial products**

The classes of financial products that can be traded on the Market are:

(a) shares in a company; and

(b) interests in a managed investment scheme that is structured as a unit trust;

other than shares or interests that are able to be traded on a licensed market other than the Market.

#### **6. Participants**

It is a condition of this Licence that the Licensee must ensure that:

(a) a wholesale participant only deals on the Market on their own behalf; and

(b) a retail participant:

(i) only deals on the Market on their own behalf; and

(ii) does not acquire any financial products through the Market, but only participates in the Market to dispose of financial products.

#### **7. Conditions which must be satisfied before the Licensee begins to operate the Market**

(1) The Licensee must not commence operating the Market unless 14 days have elapsed since the day on which the conditions in subsections (2) to (4) are all satisfied.

(2) The Licensee must give ASIC written confirmation by a person approved by ASIC and engaged on terms and conditions acceptable to ASIC, including as to the scope of the person's work:

(a) of the adequacy of the Licensee's governance framework for testing technology systems; and

(b) of the adequacy and results of the Licensee's testing of its technology systems, including testing of all necessary external connections which the Licensee needs to have in place to operate the Market, according to the governance framework;

- (c) of the adequacy of the Licensee's resources (including financial, technological, and human resources) and arrangements for managing and overseeing cyber security risks; and
  - (d) that is dated no more than 30 days before it is given to ASIC.
- (3) The Licensee must confirm to ASIC in writing that it has employed or engaged all necessary people in all of the positions described in its application under subsection 795A(1) of the Act, and that as a result, it has sufficient human resources to operate the Market properly in accordance with its obligations under paragraph 792A(1)(d) of the Act.
- (4) The Licensee must give to ASIC an attestation in writing on behalf of the Board of Directors of the Licensee that is dated no more than 30 days before it is given to ASIC confirming that:
- (a) the Licensee has sufficient resources (including financial, technological, and human resources) to operate the Market in compliance with Part 7.2 of the Act and this Licence; and
  - (b) the Licensee is ready to commence operating the Market in compliance with Part 7.2 of the Act and this Licence.

## **8. Market not to be a continuous trading market**

It is a condition of this Licence that the Market does not operate as a continuous trading market.

## **9. Market not to receive money from retail participants**

It is a condition of this Licence that the Licensee does not receive money from retail participants in relation to the operation of the Market, except fees charged for the disposal of financial products on the Market.

## **10. External dispute resolution**

It is a condition of this Licence that the Licensee:

- (a) must be a member of an external dispute resolution scheme for the handling of complaints made by retail participants in relation to the operation of the Market; and
- (b) disclose information about how to access the external dispute resolution scheme to retail participants;

## **11. Disclosure to participants**

It is a condition of this Licence that the Licensee must, before admitting a participant, provide written notice to the participant of the following:

- (a) that Part 7.5 compensation arrangements do not apply in relation to the Market; and
- (b) entities that are subject to continuous disclosure pursuant to section 675 of the Act may have their financial products admitted to trading on the Market.

## **12. Clearing and settlement arrangements**

It is a condition of this Licence that the Licensee must have arrangements in place for the settlement of all transactions effected through the Market with:

- (a) FinClear Pty Ltd, provided that FinClear Pty Ltd is a CS facility licensee; or
- (b) any other CS facility licensee approved for the purpose by the Minister.

## **13. Quarterly notifications**

It is a condition of this Licence that the Licensee must notify ASIC of the details of the following matters, within 30 days after the end of each reporting period:

- (a) details of any new class of financial services provided by the Licensee that is incidental to the operation of the Market;
- (b) details of any kind of disciplinary action taken by the Licensee against a participant, including the participant's name and the reason for and nature of the action taken;
- (c) details of any complaints received in respect of the operation of the Market;
- (d) the total number of transactions effected through the Market during the reporting period;
- (e) the total number of transactions and their total value during the reporting period by each participant, identifying each participant by their registered name and their wholesale/retail status;
- (f) a list of the following:
  - (i) trading windows that took place;

- (ii) trading windows that did not complete;
- (iii) list of all contra transactions requested, initiated and completed; and
- (iv) any other information required by ASIC.

#### **14. Record keeping**

It is a condition of this Licence that the Licensee must:

- (a) have adequate arrangements in place for the recording of order information and trades entered into through the Market; and
- (b) keep for a period of at least 7 years records of order information and trades entered into through the Market.

#### **15. Other notifications**

The Licensee must, as soon as practicable after the Licensee becomes aware, notify ASIC in writing of the details of failure to comply with any of the conditions in this Licence.

#### **16. Market ceases to operate**

It is a condition of this Licence that, where the Licensee intends to cease operating the Market the Licensee must:

- (a) establish, document, and implement adequate arrangements for ensuring the orderly cessation of the Market; and
- (b) notify ASIC:
  - (i) as soon as reasonably practicable that the Licensee intends to cease operating the Market;
  - (ii) of the arrangements referred to in paragraph (a), at least 4 weeks before ceasing to operate the Market in this jurisdiction; and
  - (iii) of any changes to the arrangements referred to in paragraph (a) following the notification in subparagraph (ii), as soon as reasonably practicable after making those changes.



## Corporations (FinClear Pty Ltd) Exemption Notice 2024

*Corporations Act 2001*

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I, Amanda Zeller, Senior Executive Leader, Australian Securities and Investments Commission make this notice under subsection 791C(1) of the *Corporations Act 2001* (the Act).

Dated 11 September 2024

A handwritten signature in black ink, appearing to read "Zeller".

Signed

as a delegate of the Minister under section 1101J of the Act

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## 1. Name

This is the *Corporations (FinClearPty Ltd) Exemption Notice 2024*.

Note: This instrument should be read in conjunction with the *Australian Market Licence (FinClearPty Ltd) 2024*.

## 2. Authority

This instrument is made under subsection 791C(1) of the *Corporations Act 2001*.

## 3. Commencement

This instrument commences on the later of:

- (a) commencement of the Australian Market Licence (FinClear) 2024; and
- (b) the date this instrument is made.

## 4. Definitions

*Act* means the *Corporations Act 2001*.

*Licensee* means FinClear Pty Ltd ACN 607 164 714.

*Market* means the financial market operated by the Licensee under the *Australian Market Licence (FinClearPty Ltd) 2024*.

*Regulations* means the *Corporations Regulations 2001*.

## 5. Exemption—Notifications to ASIC

The Licensee does not have to comply with any of the following provisions of the Act in relation to the Market:

- (a) paragraph 792B(2)(a) - notifying ASIC of a new class of financial service incidental to the operation of the Market;
- (b) paragraph 792B(2)(b) – notifying ASIC of disciplinary action taken against a participant;
- (c) paragraph 792B(3)(a) - notifying ASIC of a matter that has (or may) adversely affect the ability of a participant, who is a financial services licensee, to meet the participant's obligations as a financial services licensee; and
- (d) paragraph 792B(3)(b) - notifying ASIC of a matter concerning a participant who is a financial services licensee, of a kind prescribed by the regulations made for the purposes of paragraph 792B(3)(b).

Note: See regulation 7.2.01 of the Regulations for the matters prescribed for the purposes of paragraph 792B(3)(b).



## **6. Exemption—Content of operating rules**

The Licensee does not have to comply with any of the following provisions of the Regulations in relation to the Market:

- (a) paragraph 7.2.07(h) – operating rules that deal with mechanisms for settling market-related disputes between participants;
- (b) paragraph 7.2.07(i) – operating rules that deal with assessment and investigation of market-related disputes between participants; and
- (c) paragraph 7.2.07(j) – operating rules that deal with obligations on participants and listed entities that are necessary to ensure the licensee is able to comply with s792A(1)(c)(i) and regulations made under s798E of the Act.

## **7. Exemption—Content of written procedures**

The Licensee does not have to comply with either of the following provisions of the Regulations in relation to the Market:

- (a) paragraph 7.2.08(a) – having written procedures for the exchange of certain information; and
- (b) paragraph 7.2.08(d) – having written procedures for the assessment, investigation and settlement of market-related disputes between participants.