

Attachment 2 to CP 342: Draft rules



ASIC
Australian Securities &
Investments Commission

Extracts of draft amendments to the ASIC Market Integrity Rules (Futures Markets) 2017

June 2021

These draft rules reflect the proposals in Consultation Paper 342 *Proposed amendments to the ASIC market integrity rules and other ASIC-made rules* (CP 342).

Contents

Chapter 2: Market Participants	3
Part 2.2 Supervision and risk management	3
Chapter 3: Trading principles	4
Part 3.4 Trading principles for Block Trades	4
Part 3.5 Trading principles for Exchange For Physical transactions.	4
Part 3.6 Suspicious activity reporting	4
Chapter 4: The Market Operator	6
Part 4.4 Supervision and risk management	6

DRAFT

Chapter 2: Market Participants

...

Part 2.2 Supervision and risk management

2.2.3 Persons involved in the business—Good fame and character requirement

(1) A Market Participant or must ensure that any Employee or other person who is or will be involved in the business of the Market Participant and, in the case of a body corporate, each director or Controller, is of good fame and character and high business integrity having regard to subrule (2).

(2) In assessing whether a person is of good fame and character and high business integrity for the purpose of subrule (1):

- (a) a person will not be of good fame and character if he or she is disqualified from managing a corporation under the Corporations Act or under the law of another country, or is an insolvent under administration or its equivalent in another country; and
- (b) a person may not be of good fame and character or high business integrity if the person has been:
 - (i) convicted of any offence;
 - (ii) disciplined by or adversely mentioned in a report made by, or at the request of, any government or governmental authority or agency;
 - (iii) adversely mentioned in a report made by, or at the request of, a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility; or
 - (iv) disciplined by a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility.

Note: Market Operators are subject to an equivalent rule (see Part 4.3).

DRAFT

Chapter 3: Trading principles

...

Part 3.4 Trading principles for Block Trades

3.4.4 Client authorisation

(1) Before executing a Block Trade Order on behalf of a Client on a Market, a Participant of that Market must be authorised by the Client to do so either specifically or generally.

(2) The Market Participant must keep a record of the identity of the authoriser, and the date and time of the authorisation.

Part 3.5 Trading principles for Exchange For Physical transactions

3.5.3 Client authorisation

(1) Before executing an Exchange For Physical Order on behalf of a Client, a Market Participant must be authorised by the Client to do so either specifically or generally.

(2) The Market Participant must keep a record of the identity of the authoriser, and the date and time of the authorisation.

Part 3.6 Suspicious activity reporting

3.6.1 Notification requirement

(1) Subject to subrule (2), if a Market Participant has reasonable grounds to suspect that:

- (a) a person (the *Insider*) has placed an Order into or entered into a transaction on a Market in relation to a financial product while in possession of inside information (within the meaning of section 1042A of the Corporations Act), whether or not the Market Participant is aware of:
 - (i) the identity of the Insider; or
 - (ii) all of the details of the order or transaction; or
- (b) a transaction or an order transmitted to a Trading Platform of a Market has or is likely to have the effect of:
 - (i) creating an artificial price for trading in financial products on a Market;

DRAFT

- (ii) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in financial products on a Market;
- (iii) creating, or causing the creation of, a false or misleading appearance of active trading in financial products on a Market; or
- (iv) creating, or causing the creation of, a false or misleading appearance with respect to the market for, or the price for trading in, financial products on a Market, whether or not the Market Participant is aware of:
 - (v) the intention of any party to the transaction or order; or
 - (vi) all of the details of the transaction or order,

the Market Participant must, as soon as practicable, notify ASIC in writing of the details of the transaction or order (to the extent known to the Market Participant) and the reasons it suspects the matter set out in paragraphs (a) and/or, (b).

(2) A Market Participant is not required to notify ASIC under subrule (1) if the Market Participant has reported the information that would otherwise be required to be contained in the notification to ASIC under subrule (1) to the Australian Transaction Reports and Analysis Centre under section 41 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* or under section 16 of the *Financial Transaction Reports Act 1988*.

3.6.2 Confidentiality

A Participant who notifies ASIC under subrule 3.6.1(1) must not disclose that the notification was made, or the information contained in the notification, to any person other than:

- (a) for the purposes of seeking legal advice; or
- (b) as required by law.

DRAFT

Chapter 4: The Market Operator

...

Part 4.4 Supervision and risk management

4.4.1 Persons involved in the business—Good fame and character requirement

(1) A Market operator or must ensure that any Employee or other person who is or will be involved in the business of the Market operator and, in the case of a body corporate, each director or Controller, is of good fame and character and high business integrity having regard to subrule (2).

(2) In assessing whether a person is of good fame and character and high business integrity for the purpose of subrule (1):

- (a) a person will not be of good fame and character if he or she is disqualified from managing a corporation under the Corporations Act or under the law of another country, or is an insolvent under administration or its equivalent in another country; and
- (b) a person may not be of good fame and character or high business integrity if the person has been:
 - (ii) convicted of any offence;
 - (iii) disciplined by or adversely mentioned in a report made by, or at the request of, any government or governmental authority or agency;
 - (iv) adversely mentioned in a report made by, or at the request of, a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility; or
 - (v) disciplined by a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility.

Note: Market Participants are subject to an equivalent rule (see Part 2.2).

DRAFT