

**Australian Securities and Investments Commission*****Corporations Act 2001* — Subsection 798G(1) — Variation****1. Enabling legislation**

I, Greg Yanco, with the written consent of the Minister, make the following instrument under subsection 798G(1) of the *Corporations Act 2001*.

Dated this 20th day of November 2012

Signed by Greg Yanco

as a delegate of the Australian Securities and Investments Commission.

**2. Title**

This instrument is *ASIC Market Integrity Rules (ASX Market) Amendment 2012 (No. 3)*.

**3. Commencement**

Each provision of this instrument specified in column 1 of the table commences in accordance with column 2 of the table.

**Commencement information**

Items of Schedule 1	Commencement
All Items other than Items [30] to [34]	The day that is 18 months after the day on which this instrument is registered under the <i>Legislative Instruments Act 2003</i> .
Items [30] to [34]	The day after the day on which this instrument is registered under the <i>Legislative Instruments Act 2003</i> .

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (FRLI) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of register). The FRLI may be accessed at <http://www.frli.gov.au/>.

## **4. Amendments**

Schedule 1 amends the *ASIC Market Integrity Rules (ASX Market) 2010*.

### **Schedule 1 Amendments**

#### **[1] Rule 1.4.3, after the definition of “AFSL”**

*insert*

“**AOP Annual Notification**” has the meaning given by subrule 5.6.8B(1).

“**AOP Annual Review**” has the meaning given by Rule 5.6.8A.

“**AOP Annual Review Date**” means 1 November each calendar year.

“**AOP Initial Certification**” has the meaning given by Rule 5.6.6.

“**AOP Material Change Review**” has the meaning given by subrule 5.6.8(1).

#### **[2] Rule 1.4.3, definition of “Authorised Person”, subparagraph (a)(i)**

*omit*

or

#### **[3] Rule 1.4.3, definition of “Authorised Person”, subparagraph (a)(ii)**

*omit*

and

*substitute*

or

#### **[4] Rule 1.4.3, definition of “Authorised Person”, after subparagraph (a)(ii)**

*insert*

(iii) a Representative of a Trading Participant; and

#### **[5] Rule 5.6.3**

*before “A Trading Participant”, insert*

(1)

**[6] Rule 5.6.3(b)**

*after “;”, omit*

and

**[7] Rule 5.6.3(c)**

*omit*

markets provided by the Market Participant

*insert*

the Market

**[8] Rule 5.6.3(c)**

*omit*

.

*substitute*

;

**[9] Rule 5.6.3, after paragraph (c)**

*insert*

- (d) controls, including automated controls, that enable immediate suspension, limitation or prohibition of the conduct of all Automated Order Processing or Automated Order Processing in respect of:
  - (i) one or more Authorised Persons or clients;
  - (ii) Automated Client Order Processing; or
  - (iii) one or more Products; and
- (e) controls that enable immediate:
  - (i) suspension of, limitation of, or prohibition on, the entry into the Market of Trading Messages in a series of related Trading Messages where the Trading Participant has identified that Trading Messages in the series have entered the Market and have interfered with or are likely to interfere with the efficiency or integrity of the Market; and
  - (ii) cancellation of Trading Messages in a series that have already entered the Market where the entry of further messages in the series has been suspended, limited or prohibited under subparagraph (i).

**[10] Rule 5.6.3**

*add, before “Maximum penalty: \$1,000,000”*

(2) A Trading Participant that uses its system for Automated Order Processing must have direct control over all automated filters and the filter parameters for those filters.

**[11] Subrule 5.6.5(1)**

*omit*

their Automated Order Processing system meets the requirements of each of paragraphs 5.6.3(a), (b) and (c)

*substitute*

the Trading Participant has in place organisational and technical resources, arrangements and controls in relation to the system for Automated Order Processing that meet the requirements of Rule 5.6.3

**[12] Subrule 5.6.5(2)**

*after “subrule (1)” insert*

must

**[13] Paragraph 5.6.5(2)(a)**

*omit*

must

**[14] Paragraph 5.6.5(2)(a)**

*after “the” (first occurring), insert*

organisational and technical resources, arrangements and

**[15] Paragraph 5.6.5(2)(c)**

*after “;”, insert*

and

**[16] Paragraph 5.6.6(1)(a)**

*after “certification”, insert*

(“AOP Initial Certification”).

**[17] Paragraphs 5.6.6(1)(b)**

*omit*

certification

*substitute*

AOP Initial Certification

**[18] Subrule 5.6.6(2)**

*omit*

written certification

*substitute*

AOP Initial Certification

**[19] Subparagraph 5.6.6(2)(d)(iii)**

*after “the” (third occurring), insert*

organisational and technical resources, arrangements and

**[20] Rule 5.6.7**

*omit the rule*

**[21] Rule 5.6.8 (heading)**

*omit*

Material change review

*substitute*

AOP Material Change Review

**[22] Rule 5.6.8**

*before “Before”, insert*

(1)

**[23] Rule 5.6.8**

*after “resources”, insert*

, arrangements or controls

**[24] Rule 5.6.8**

*omit*

, for the purposes of providing the confirmation referred to in Rule 5.6.9 or the further certification referred to in Rule 5.6.10,

**[25] Rule 5.6.8**

*after “review”, insert*

**(“AOP Material Change Review”)**

**[26] Rule 5.6.8**

*after “these Rules.”, insert*

(2) Before implementing a material change the subject of an AOP Material Change Review the Trading Participant must, for the purposes of providing the AOP Annual Notification, obtain written representations from the person who performed the AOP Material Change Review that nothing came to the attention of the person during the course of the AOP Material Change Review that would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules.

(3) The representations referred to in subrule (2) must:

- (a) include the name of the person making the representation; and
- (b) be signed and dated by the person making the representation.

**[27] After Rule 5.6.8**

*insert*

**5.6.8A AOP Annual Review**

(1) Where a Trading Participant has not performed an AOP Material Change Review in relation to an Automated Order Processing system in the 12 months before the AOP Annual Review Date, the Trading Participant must, for the purposes of providing the AOP Annual Notification in relation to that Automated Order Processing system, ensure that an appropriately qualified person performs a review (**“AOP Annual Review”**) of the Automated Order Processing system, the Trading Participant’s policies, procedures, system design documentation, including the Trading Participant’s procedures for implementation of changes to the Automated Order Processing software, filters and filter parameters and other relevant documentation concerning the Trading Participant’s compliance with Part 5.6 of these Rules.

(2) The Trading Participant must, for the purposes of providing the AOP Annual Notification in relation to an Automated Order Processing system, obtain written representations from the

person who performed the AOP Annual Review in relation to the Automated Order Processing system, that nothing came to the attention of the person during the course of the AOP Annual Review that would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules.

(3) The representations referred to in subrule (2) must:

- (a) include the name of the person making the representation; and
- (b) be signed and dated by the person making the representation.

Maximum penalty: \$100,000

### **5.6.8B AOP Annual Notification**

(1) A Trading Participant must, within 10 Business Days of each AOP Annual Review Date, given a written notice (“**AOP Annual Notification**”) to ASIC that includes:

- (a) the name of the Trading Participant; and
- (b) the version number and name of the Trading Participant’s Automated Order Processing system; and
- (c) a confirmation by the Trading Participant that nothing came to the attention of the Trading Participant during the 12 months before the AOP Annual Review date that would indicate that the Trading Participant is unable to comply with Part 5.6 of these Rules; and
- (d) the name of the directors of the Trading Participant referred to in subrule (2).

(2) At least two directors of the Trading Participant must sign and date the AOP Annual Notification.

Maximum penalty: \$100,000

### **[28] Rule 5.6.9**

*omit the rule*

### **[29] Rule 5.6.10**

*omit the rule*

### **[30] Rule 6.4.1**

*omit*

Market Bid

*substitute*

Takeover Bid

**[31] Rule 6.4.3**

*omit*

Market Bid

*substitute*

Takeover Bid

**[32] Subparagraph 7.1.1(2)(g)(vi)**

*omit*

and

**[33] After paragraph 7.1.1(2)(g)**

*insert*

(ga) information for the order or trade recorded by the Market Operator in accordance with subrule 5A.2.2(1) of the Competition Market Integrity Rules; and

**[34] At the end of Rule 7.1.2**

*insert*

Note: There is no penalty for this rule.