

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 24th day of April 2013

Signed by Greg Yanco

as a delegate of the Australian Securities and Investments Commission

2. Title

This instrument is *ASIC Market Integrity Rules (ASX 24 Market) Amendment 2013 (No. 1)*.

3 Commencement

This instrument commences on the day after the day on which this instrument is registered under the *Legislative Instruments Act 2003*.

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*, section 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 24 Market) 2010*.

Schedule 1 Amendments

[1] Rule 1.4.3, after definition of “ASIC”

insert

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

[2] Rule 1.4.3, definition of “Employee”

omit

Employee

substitute

employee

[3] Rule 1.4.3, after definition of “Expression of Interest”

insert

“**Financial Products**” has the meaning given by Division 3 of Part 7.1 of the Corporations Act.

[4] Rule 1.4.3, definition of “Margin”

after “means”, insert

Initial Margin and

[5] Rule 1.4.3, definition of “Option or Option Contract”

omit

“**Option or Option Contract**”

substitute

“**Option**” or “**Option Contract**”

[6] Rule 1.4.3, after definition of “Representative”

insert

“**Roll Business**” means trading a position from the nearest delivery month to an equivalent position in a different delivery month.

[7] Rule 1.4.3, definition of “Trading Platform”

omit

Trading Messages

substitute

trading messages

[8] Part 2.2 (heading)

omit

Risk management

substitute

Supervision and risk management

[9] Rule 2.2.1 (heading)

omit

Client limits and Client connections

substitute

Limits and connections

[10] Subrule 2.2.1(1) (heading)

omit

Client limits

substitute

Limits

[11] Subrule 2.2.1(1), after paragraph 2.2.1(1)(a)

insert

- (ab) set and document appropriate pre-determined Order and/or position limits on each of its House Accounts, including a volume per Order limit, an aggregate loss limit and an aggregate net session limit, based on the Market Participant's analysis of its financial resources or other relevant factors;

[12] Paragraph 2.2.1(1)(c)

after "Rule 2.2.1(a)", insert

, (ab)

[13] Paragraph 2.2.1(1)(e)

omit

in its absolute discretion

[14] Paragraph 2.2.1(1)(e)

after “limit”, insert

based on the Market Participant’s analysis of the Clients’ financial resources (in the case of a Client Account) or its financial resources (in the case of a House Account) or other relevant factors

[15] Subrule 2.2.1(2) (heading)

omit

Client connections

substitute

Connections

[16] Subrule 2.2.1(2), after paragraph 2.2.1(2)(a)

insert

(ab) Any Market Participant who has connected to a Terminal for the purposes of Trading for a House Account will be responsible under these Rules for any Orders entered through the Terminal.

[17] Paragraph 2.2.1(2)(b)

omit

such

substitute

a

[18] Paragraph 2.2.1(2)(b)

after “connection”, insert

referred to in paragraph (a) or (ab)

[19] Subrule 2.2.1(3) (heading)

omit

client

substitute

Client

[20] After subrule 2.2.1(3)

add

(4) Obligations in relation to proprietary connection

Prior to connecting to a Terminal for the purpose of Trading for a House Account, and at all times while connected to a Terminal for the purpose of Trading for a House Account, a Market Participant must:

- (a) have the necessary skills, facilities and procedures to operate such a facility;
- (b) understand the risk and obligations attached to the use of such a facility;
- (c) ensure that each Order so placed, and any Order System, complies with the Rules;
- (d) provide appropriate controls on the access to passwords of the Market Participant and its Employees to such systems; and
- (e) ensure appropriate controls are implemented for the security of its premises and physical access of the Market Participant and its Employees to such systems.

(5) Transitional

A Market Participant that is a Market Participant on the date Rule 2.2.1(5) commences, is not required to comply with this Rule 2.2.1 in relation to its House Accounts, until a period of three (3) months has passed from the date Rule 2.2.1(5) commences.

[21] Paragraph 2.2.3(1)(a)

omit

the Rules

substitute

these Rules or market integrity rules on substantially the same terms as and modelled on these Rules

[21A] Paragraph 2.2.4(4)(b)

after "Initial", insert

Margin

[21B] Subparagraph 2.2.5(1)(b)(v)

after "pay", insert

Variation

[22] Subparagraph 2.2.6(f)(i)

after “Initial”, insert

Margin

[23] Paragraph 2.2.6(j)

after “Initial”, insert

Margin

[24] After Rule 2.2.7

insert

2.2.8 Supervisory procedures

(1) A Market Participant must have appropriate supervisory policies and procedures to ensure compliance by the Market Participant and each person involved in its business as a Market Participant with these Rules, the Market Operating Rules and the Corporations Act.

(2) A Market Participant that is a Market Participant on the date this Rule 2.2.8 commences, is not required to comply with this Rule 2.2.8 until a period of three (3) months has passed from the date Rule 2.2.8 commences.

Maximum Penalty: \$1,000,000

[25] At the end of Rule 2.3.5, add

Maximum penalty: \$1,000,000

[26] After Rule 2.3.6

insert

Part 2.4 Foreign Participants

2.4.1 Minimum presence requirements

(1) This Rule applies to a Market Participant (“**Foreign Market Participant**”) that:

- (a) is a foreign entity; and
- (b) does not hold an Australian Financial Services Licence.

(2) Before entering into a Market Transaction, a Foreign Market Participant must provide ASIC with a deed of the Foreign Market Participant for the benefit of and enforceable by ASIC

and the other persons referred to in subsection 659B(1) of the Corporations Act, which deed provides that:

- (a) the deed is irrevocable except with the prior written consent of ASIC;
- (b) the Foreign Market Participant submits to the non-exclusive jurisdiction of the Australian courts in legal proceedings conducted by ASIC (including under section 50 of the ASIC Act) and, in relation to proceedings relating to a financial services law, by any person referred to in subsection 659B(1) of the Corporations Act and whether brought in the name of ASIC or the Crown or otherwise;
- (c) the Foreign Market Participant covenants to comply with any order of an Australian court in respect of any matter relating to the activities or conduct of the Foreign Market Participant in relation to the Market or in relation to Financial Products traded on the Market, including but not limited to any matter relating to the Foreign Market Participant's obligations under:
 - (i) the ASIC Act;
 - (ii) the Corporations Act; and
 - (iii) the *Corporations (Fees) Act 2001*;
- (d) if the Foreign Market Participant is not registered under Division 2 of Part 5B.2 of the Corporations Act:
 - (i) the Foreign Market Participant must have at all times an agent who is:
 - (A) a natural person or a company;
 - (B) resident in this jurisdiction; and
 - (C) authorised to accept, on behalf of the Foreign Market Participant, service of process and notices; and
 - (ii) the Foreign Market Participant must notify ASIC of any change to:
 - (A) the agent; or
 - (B) the name and address of the agent (if the agent is a company, address means the address of the registered office of the company); and
 - (iii) service of process on the Foreign Market Participant in relation to legal proceedings conducted by ASIC (including under section 50 of the ASIC Act), and in relation to proceedings relating to a financial services law, by any person referred to in subsection 659B(1) of the Corporations Act and whether brought in the name of ASIC or the Crown or otherwise, can be effected by service on the agent;
- (e) the deed applies notwithstanding that the Foreign Market Participant may have ceased to be a Market Participant; and
- (f) such additional terms notified by ASIC to the Foreign Market Participant.

(3) A Foreign Market Participant that is a Market Participant on the date this Rule 2.4.1 commences, is not required to comply with this Rule 2.4.1 until a period of three (3) months has passed from the date Rule 2.4.1 commences.

Maximum penalty: \$1,000,000

[27] Subrule 3.1.7(1)

after “Orders”, insert

or Expressions of Interest

[28] Subrule 3.1.7(2)

after “information”, insert

(including Expressions of Interest)

[29] Subrule 3.1.7(2)

after “Orders”, insert

and Expressions of Interest

[30] Rule 3.1.8

before “Subject”, insert

(1)

[31] Rule 3.1.8

at the end of the Rule, before “Maximum penalty: \$1,000,000”, insert

(2) A Market Participant must not withhold two or more Orders with the intent to avoid trading with the Market.

[32] Subrule 3.1.10(1)

omit

(1)

[33] Subrule 3.1.10(1)

omit

3.1.10(2),

[34] Subrule 3.1.10(2)

omit the subrule

[35] After subrule 3.1.13(1)

insert

(1A) A Market Participant must give priority to the Client's instructions where there is a conflict between the Client's interests and the Market Participant's interests.

[36] After Rule 3.3.1

insert

3.3.1A Entry of orders

(1) If counterparties have been solicited by a Market Participant pursuant to Rule 3.3.1(1)(a), the Market Participant must:

- (a) make an enquiry through the message facility of the Trading Platform for a market in that contract month or strategy;
- (b) wait until the period of time prescribed by the Market Operator in the Market Operating Rules, or in the procedures to the Market Operating Rules, has elapsed since the entry of the enquiry or, if no such time is prescribed, 30 seconds; and
- (c) then immediately enter the Order on the Trading Platform for execution.

(2) An enquiry under Rule 3.3.1A(1)(a) must:

- (a) specify all information that is material to the pricing and trading of the orders to be executed;
- (b) where applicable, include a description of the contract, class and series of the option(s) that will form the strategy;
- (c) where applicable, include a description of the intended trade using common market terminology; and
- (d) if the trade involves a ratio of futures or options and/or a delta hedge, information that explicitly specifies the ratio, delta and the price basis for the hedge in the underlying commodity, as applicable.

(3) Where a Market Participant ("**first Market Participant**") holds opposing Orders at a specific price, and a bid or offer is entered in the Market by another Market Participant ("**other Market Participant**") following the message sent under Rule 3.3.2(1)(a) that is at the same or better price than the opposing Orders held by the first Market Participant, the first Market Participant must give priority to trading against the bid or offer entered by the other Market Participant.

Maximum penalty: \$100,000

[37] Rule 3.3.2

omit

Trade

substitute

Order

[38] Rule 3.4.2

before “Market”, insert

(1)

[38A] Rule 3.4.2

Omit

cannot

substitute

must not

[39] Rule 3.4.2

after “Thresholds.”, insert

(2) Market Participants must not use the Block Trade Facility to execute Roll Business.

[40] Rule 3.4.2

omit

Note: There is no penalty for this Rule.

substitute

Maximum penalty: \$100,000

[41] Paragraph 3.5.2(2)(a)

after “updated”, insert

list of Representatives

[42] Paragraph 3.5.2(2)(a)

after “authorised”, insert

to register Exchange For Physical Transactions on behalf of the

[43] Paragraph 3.5.2(2)(a)

omit

signatory list for Exchange For Physical transactions

[44] After Rule 3.5.2

insert

3.5.3 Client authorisation

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

Maximum penalty: \$100,000

[45] Rule 7.2.9 (heading)

omit

Margin Requirements for Trading on Financial Markets other than Markets operated by the Market Operator

substitute

Margin Requirements—Trading on Financial Markets other than Markets operated by the Market Operator, Margin Action Book and Margin Default Register

[45A] Paragraph 7.2.10(b)

after “Initial”, insert

Margins

[46] Subparagraph 7.2.10(b)(i)

after “Clients;”, insert

and

[47] Subparagraph 7.2.10(b)(ii)

Omit the subparagraph

[48] Subparagraph 7.2.10(b)(iii)

Renumber as 7.2.10(b)(ii)