

ASIC MARKET INTEGRITY RULES (FUTURES MARKETS) 2017

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

Enabling Legislation

The Australian Securities and Investments Commission (**ASIC**) makes the *ASIC Market Integrity Rules (Futures Markets) 2017* (**Market Integrity Rules (Futures) or Rules**) under subsection 798G(1) of the *Corporations Act 2001* (the **Act**).

Subsection 798G (1) of the Act provides that ASIC may, by legislative instrument, make rules that deal with:

- (a) the activities or conduct of licensed markets;
- (b) the activities or conduct of persons in relation to licensed markets;
- (c) the activities or conduct of persons in relation to financial products traded on licensed markets.

Subsection 798G(1) was inserted by Schedule 1 of the *Corporations Amendment (Financial Market Supervision) Act 2010* (the **Amending Act**).

Details of the Market Integrity Rules (Futures) are contained in Attachment A. Capitalised terms in this Explanatory Statement refer to defined terms in the Rules.

Background and Rationale

On 24 August 2009, the Australian Government announced the transfer of the supervisory function for Australia's domestic licensed financial markets from market operators to ASIC. The Amending Act gave effect to this decision and received Royal Assent on 25 March 2010. Consequently the Amending Act provided ASIC with:

- (a) the function of supervising domestic Australian market licensees; and
- (b) the power to make and enforce market integrity rules.

For expedience and to minimise the immediate impact of the transfer of supervision to ASIC, the market integrity rules that were initially made, obligations applying to activities and conduct for each licensed domestic market. Those rules generally reflected a subset of the

content of the markets' operating rules in effect prior to the transfer of supervision. In 2011 ASIC made the *ASIC Market Integrity Rules (Chi-X Australia Market) 2011* to apply to the (then) new licenced market operated by Chi-X Australia Pty Ltd and *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*, to address regulatory issues resulting from the introduction of competition between exchange markets for securities, and to provide for some market integrity rules applicable across licenced markets. In 2013 ASIC made the *ASIC Market Integrity Rules (FEX Market) 2013* to apply to the futures market operated by FEX Global Pty Ltd. In 2014 ASIC moved the market integrity rules specifying capital requirements for participants of some markets from their existing rulebooks, into separate capital market integrity rules for those markets.

As part of its supervisory responsibilities, ASIC reviewed the 14 market integrity rule books in force in late 2016 and identified the need to consolidate certain market integrity rule books which covered substantively similar existing obligations across like domestic licensed markets in order to:

- (a) minimise the opportunity for regulatory arbitrage by participants;
- (b) assist participants of the similar domestic licenced markets to comply with their regulatory obligations;
- (c) contribute to efficiency in supervision and enforcement of the market integrity rules by ASIC;
- (d) avoid additional regulatory burden and cost for industry participants;
- (e) ensure consistent regulatory settings and a level regulatory playing field between market operators and between market participants which trade in similar products;
- (f) help promote retail investor trust and confidence and market transparency by ensuring investor protection measures are consistent;
- (g) facilitate market development and competition; and
- (h) reduce ASIC's administrative burden when amending market integrity rules in future.

The policy objective for creating a single point of reference for market integrity rules that are common between markets aligns with ASIC's regulatory responsibilities under the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) to:

- (a) maintain, facilitate and improve the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy; and
- (b) promote the confident and informed participation of investors and consumers in the financial system.

Accordingly, the rationale for developing the Market Integrity Rules (Futures) was to provide a single point of reference for market operators and participants across all domestic licensed markets for futures.

The consolidation of market integrity rules applicable to market operators and participants across all domestic licensed markets for futures in these Rules is part of a wider project, which also involves consolidation of the market integrity rules applicable to market operators and participants across all licensed domestic markets for securities (see the *ASIC Market Integrity Rules (Securities Markets) 2017*), and consolidation of the market integrity rules setting out the capital requirements for securities and futures market participants (see the *ASIC Market Integrity Rules (Securities Markets – Capital) 2017* and the *ASIC Market Integrity Rules (Futures Markets – Capital) 2017*).

Scope of Rules

The Market Integrity Rules (Futures) set out the market integrity rules that apply to:

- (a) the activities and conduct of the domestic licensed financial markets in Australia (the **Markets**) operated by:
 - (i) Australian Securities Exchange Limited under *Australian Market Licence (Australian Securities Exchange Limited) 2002* (the **ASX 24 Market**);
 - (ii) FEX Global Pty Ltd under *Australian Market Licence (FEX Global Pty Ltd) 2013* (the **FEX Market**);
- (b) the activities or conduct in relation to the Markets; and
- (c) the activities or conduct of persons in relation to financial products traded on the Markets.

Generally, the Rules maintain the substance of the regulatory regime embodied in following market integrity rules applicable prior to the commencement of the Rules (the **Pre-Commencement Market Integrity Rules**):

- (a) *ASIC Market Integrity Rules (ASX 24 Market) 2010* (**ASX 24 Rules**);
- (b) *ASIC Market Integrity Rules (FEX Market) 2013* (**FEX Rules**); and
- (c) *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* (**Competition Rules**).

As part of ASIC's review of the Pre-Commencement Market Integrity rules for consolidation, ASIC identified market integrity rules applicable to futures market operators and participants contained in the Competition Rules. The substance of those rules (applicable to futures market operators and participants) have been incorporated into the Rules, and removed from the consolidated rulebook applicable to domestic licensed markets for securities (see the *ASIC Market Integrity Rules (Securities Markets) 2017*). Attachment A notes where Rules have been modelled on the Competition Rules.

Consultation

ASIC consulted publically on the Market Integrity Rules (Futures). On 24 January 2017, ASIC released Consultation Paper 227: *Proposals to consolidate ASIC market integrity rules (CP 277)*, including the draft Market Integrity Rules (Futures).

In CP 277, and as relevant to the Rules, we consulted publically on proposals to consolidate the Pre-Commencement Market Integrity Rules into a single set of ASIC market integrity rules and, where requirements in the Competition Rules applied to the ASX 24 Market and, or the FEX market, and their Participants, to replicate those rules in the Rules.

The consultation period for CP 277 occurred between 24 January 2017 and 7 March 2017. We held over 25 meetings with stakeholders during and following that period. In addition, we consulted ASIC's Market Advisory Panel on the proposals. ASIC received five non-confidential submissions and six confidential submissions to CP 277 from a broad range of stakeholders including from market participants, market operators and industry associations.

Response to Consultation

The submissions ASIC received supported the proposal to consolidate the Pre-Commencement Market Integrity Rules into a single rule book for futures markets. Respondents also generally agreed that Market Integrity Rules (Futures) should commence at least six months after the Rules are made. *Report 547: Response to submissions on CP 277 Proposals to consolidate the ASIC market integrity rules* contains more detail on the responses to CP 277 received by ASIC.

During our consideration of the draft futures rules the subject of CP277 following the consultation period, we identified an oversight in our replication, in the Rules, of all futures related rules in the Competition Rules. Specifically, the draft futures rules the subject of CP277 did not replicate the rules applicable to ASX 24 Market participants relating to Crossing Systems, from the Competition Rules. This oversight has been remedied in the Rules (see Chapter 5), and Attachment A which provides more detail about the replication.

The inclusion of Crossing System rules in the Rules does not impose new obligations on participants of the ASX 24 Market, rather, it ensures the Rules are a single point of reference for participants in the ASX 24 Market.

Penalties

Subsection 798G (2) of the Act provides that market integrity rules may include a penalty amount for a rule. A penalty amount must not exceed \$1,000,000. The penalty amount set out below a Rule is the penalty amount for that Rule.

Commencement of Rules

Each provision of the Rules other than Rule 1.1.3A commences on the later of:

- (a) 4 December 2017; and
- (b) the day after it is registered on the Federal Register of Legislation.

Rule 1.1.3A commences on the later of:

- (a) 7 May 2018; and
- (b) the day after it is registered on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

A Statement of Compatibility of Human Rights is included in this Explanatory Statement at Attachment B.

Regulation impact statement

The Office of Best Practice Regulation (OBPR) has assessed the Rules as having a minor impact on business, community organisations or individuals and confirmed that no further analysis, in the form of a Regulatory Impact Statement is required.

ATTACHMENT A

In this Attachment, a reference to:

- (a) 'Pre-Commencement Market Integrity Rule (ASX 24)' is a reference to the *ASIC Market Integrity Rules (ASX 24 Market) 2010*;
- (b) 'Pre-Commencement Market Integrity Rule (FEX)' is a reference to the *ASIC Market Integrity Rules (FEX Market Market) 2013*; and
- (c) Pre-Commencement Market Integrity Rule (Competition) is a reference to the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*.

Chapter 1: Introduction

Part 1.1 Preliminary

1.1.1 Enabling legislation

Rule 1.1.1 provides the enabling legislation for these Rules is subsection 798G(1) of the Corporations Act.

1.1.2 Title

Rule 1.1.2 provides that the title for these Rules is *ASIC Market Integrity Rules (Futures Markets) 2017*.

1.1.3 Commencement

Rule 1.1.3 provides that the instrument commences on the later of:

- (a) 7 May 2018; and
- (b) the day after the instrument is registered on the Federal Register of Legislation.

1.1.3A Revocation

Rule 1.1.3A provides that the following instruments are repealed:

- (a) *ASIC Market Integrity Rules (ASX 24 Market) 2010*; and
- (b) *ASIC Market Integrity Rules (FEX Market) 2013*.

1.1.4 Scope of these Rules

Rule 1.1.4 provides that the Rules apply to:

- (a) the activities or conduct of the Markets;
- (b) the activities or conduct of persons in relation to the Markets;
- (c) the activities or conduct of persons in relation to financial products traded on the Markets;

as specified in each Rule.

1.1.5 Entities that must comply with these Rules

Rule 1.1.5 specifies the entities that the following entities must comply with the Rules, being:

- (a) Market operators;
- (b) Market Participants; and
- (c) Other Regulated Entities;

as specified in each Rule.

The compound term 'Market Participant' has the same meaning as 'Participant of a Market'.

1.1.6 Conduct by officers, Employees or agents

Paragraph 1.1.6(a) provides that, in the Rules, conduct engaged in on behalf of a person by an officer, Employee, or other agent of the person is deemed to have been engaged in by the person.

Paragraph 1.1.6(b) provides that in these Rules, conduct engaged in on behalf of a person by any other person at the direction or with the consent or agreement (express or implied) of an officer, Employee or other agent of the person, is deemed to have been engaged in by the person.

Rule 1.1.6 reflects Pre-Commencement Market Integrity Rule 1.1.6 (ASX 24, FEX).

1.1.7 State of mind of a person

Subrule 1.1.7 (1) provides that, if for the purposes of these Rules in respect of conduct engaged in by a person, it is necessary to establish the state of mind of the person, it is

sufficient to show that an officer, Employee or other agent of the person had that state of mind.

Subrule 1.1.7(2) provides that, in subrule (1), a reference to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

Rule 1.1.7 reflects Pre-Commencement Market Integrity Rule 1.1.7 (ASX 24, FEX).

Part 1.2 Waiver

1.2.1 Waiver of Rules and procedures

Subrule 1.2.1(1) provides that ASIC may relieve any person or class of persons from the obligation to comply with a provision of the Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.

Subrule 1.2.1(2) provides that if any conditions on a waiver are imposed, all of the conditions must be complied with for the waiver to be effective.

Subrule 1.2.1(3) provides that ASIC may withdraw a waiver in writing at any time.

Subrules 1.2.1(4) to (6) provide that a waiver, conditions on a waiver and a request by a person for a waiver must be in writing, and that ASIC may publish notice of a waiver.

Rule 1.2.1 reflects Pre-Commencement Market Integrity Rule 1.2.1 (ASX 24, FEX).

1.2.2 Compliance with conditions

Rule 1.2.2 provides that failure to comply with a condition imposed under Rule 1.2.1 is a contravention of the Rule.

Rule 1.2.2 reflects Pre-Commencement Market Integrity Rule 1.2.2 (ASX 24, FEX).

1.2.3 Period during which relief applies

Rule 1.2.3 provides that ASIC may specify the period or specific event during which any relief from an obligation to comply with a provision of these Rules applies.

Rule 1.2.3 reflects Pre-Commencement Market Integrity Rule 1.2.3 (ASX 24, FEX).

1.2.4 Register

Subrule 1.2.4(1) provides that ASIC may establish and maintain a register for recording details of relief granted under Rule 1.2.1 and sets out the details that may be entered in the register. Subrule 1.2.4(2) provides that ASIC may publish the register.

Rule 1.2.4 reflects Pre-Commencement Market Integrity Rule 1.2.4 (ASX 24, FEX).

Part 1.3 Notice, notification and service of documents

1.3.1 Market participant to have email

Rule 1.3.1 provides that a Market Participant must acquire and maintain an operating email system for the purposes of receiving notices under the Rules.

Rule 1.3.1 reflects Pre-Commencement Market Integrity Rule 1.3.1 (ASX 24, FEX).

1.3.2 Methods of giving notice in writing

Rule 1.3.2 specifies the methods by which ASIC may give notice under the Rules

Rule 1.3.2 reflects Pre-Commencement Market Integrity Rule 1.3.2 (ASX 24, FEX).

Part 1.4 Interpretation

1.4.1 References to time

Rule 1.4.1 provides that in the Rules a reference to time is to the time in Sydney, Australia.

Rule 1.4.1 reflects Pre-Commencement Market Integrity Rule 1.4.1 (ASX 24, FEX).

1.4.2 Words and expressions defined in the Corporations Act

Rule 1.4.2 provides that words and expressions defined in the Corporations Act will unless otherwise defined or specified in the Rules or the contrary intention appears, have the same meaning in the Rules.

Rule 1.4.1 reflects Pre-Commencement Market Integrity Rule 1.4.1 (ASX 24, FEX).

1.4.3 Definitions

Rule 1.4.3 provides definitions for the following terms used in the Rules:

- “Anomalous Order”;
- “Anomalous Order Threshold”;
- “Approved Foreign Bank”;
- “Approved Securities”;
- “ASIC”;
- “ASIC Act”;
- “ASX 24”;
- “ASX 24 Market”;
- “ASX Clear (Futures)”;
- “ASX Market”;
- “ASX SPI 200 Future”;
- “ASX Trade24”;
- “Auction”;
- “Bid”;
- “Block Trade”;
- “Block Trade Facility”;
- “Block Trade Order”;
- “Call”;
- “CHESS Depository Interest”;
- “Chi-X Market”;
- “Clearing Participant”;
- “Clearing Rules”;
- “Client”;
- “Client Account”;
- “Client Order”;
- “Client Trade”;
- “Close Out”;
- “Contract”;
- “Controller”;
- “Corporations Act”;
- “Corporations Regulations”;
- “Cover”;
- “Cross” or “Crossing”;
- “Crossing System”;
- “Crossing System Initial Report”;

- "Crossing System Monthly Report";
- "Employee";
- "Equity Index Future";
- "Equity Market Product";
- "Error Trade";
- "ETR Event";
- "Exchange for Physical";
- "Expression of Interest";
- "Extreme Trade Range";
- "Family Company";
- "Family Trust";
- "FEX";
- "FEX Market";
- "Futures Market Contract";
- "House Account";
- "Immediate Family";
- "Initial Margin";
- "Invalid";
- "
- "Margin";
- "Market";
- "Minimum Volume Threshold";
- "Month";
- "Non-Public Crossing System Information";
- "Offer";
- "Open Position";
- "Option" or "Option Contract";
- "Order";
- "Order Book";
- "Order System";
- "Other Regulated Entities";
- "Participant";
- "Prescribed Person";
- "Pre-Commencement Market Integrity Rules";
- "Pre-Opening Period";
- "Pre-Opening Phase";
- "Principal";
- "Principal Trader";
- "Publicly Available Crossing System Information";
- "Related Party";
- "Representative";
- "Responsible Market Operator";
- "Roll Business";
- "Rules";
- "Strategy Trade";
- "Substantial Holder";
- "Terminal";
- "Trading Day";
- "Trading Hours";
- "Trading Messages";
- "Trading Participant";

- “Trading Pause”;
- “Trading Platform”;
- “Trading Reset”;
- “Trading Suspension”;
- “Underlying Physical”; and
- “Variation Margin”.

The definitions in Rule 1.4.3 substantially reflect the definitions in the Pre-Commencement Market Integrity Rules (ASX 24, FEX). Where required, definitions in Rule 1.4.3 have also been clarified to reflect the expanded scope of these Rules to apply, as relevant, to each Market.

The compound term 'Market Participant' has the same meaning as 'Participant of a Market'. Rule 1.4.3 also includes definitions for terms which were not reflected in Pre-Commencement Market Integrity Rule 1.4.3 for the following terms. Generally these definitions have been included to reflect and clarify the application of the Rules across futures markets, and to provide definitions for Rules that substantially reflect the ASX and Competition Rules applicable to futures market participants and operators in those rules:

- “Anomalous Order”;
- “Anomalous Order Threshold”;
- “ASIC Act”;
- “ASX Clear (Futures)”;
- “ASX 24”;
- “ASX 24 Market”;
- “ASX Market”;
- “ASX SPI 200 Future”;
- “ASX Trade24”;
- “Auction”;
- “Bid”;
- “CHESS Depository Interest”;
- “Chi-X Market”;
- “Equity Index Future”;
- “Equity Market Product”;
- “Extreme Trade Range”;
- “FEX”;
- “FEX Market”;
- “Invalid”;
- “Minimum Volume Threshold”;
- “Offer”;
- “Participant”;
- “Pre-Commencement Market Integrity Rules”;
- “Pre-Opening Period”;
- “Responsible Market Operator”;
- “Roll Business”;
- “Trading Hours”;
- “Trading Messages”;

- “Trading Pause”;
- “Trading Reset”; and
- “Trading Suspension”.

Part 1.5 Participants of multiple markets

Rule 1.5.1 Participants may rely on notifications

Rule 1.5.1 provides that a Market Participant may give ASIC the same document in relation to more than one Market in satisfaction of an obligation under the Rules to give that document to ASIC, if it has notified ASIC in writing that it intends to comply with these rules and the document contains all required information.

Rule 1.5.1 is not reflected in the Pre-Commencement Market Integrity Rules (ASX 24, FEX), and will ensure the elimination of duplicative notification requirements arising from the application of the Rules to multiple markets.

Part 1.6 Transitional

Rule 1.6.1 Status notifications and certifications given by a Market Participant under the Pre-Commencement Market Integrity Rules

Subrules 1.6.1(1) and (2) provide that a written notification or certification given by a Market Participant to ASIC under the Pre-Commencement Market Integrity Rules is taken to have been given under the corresponding provision in the Rules, and unless the notification or certification has been withdrawn or otherwise ceased to have effect, it will continue in its existing form and continue to have the same legal effect as when given under the corresponding provisions in the Rules.

Subrule 1.6.1(1A) provides that for the purposes of this Rule an old provision of the Pre-Commencement Market Integrity Rules will correspond to a new provision of the Rules if the old provision and new provisions are substantially the same.

Subrule 1.6.1(1B) provides that for the purposes of subrule 1.6.1(1A), differences of a certain kind will not mean 2 provisions are not substantially the same.

Rule 1.6.1 is not reflected in the Pre-Commencement Market Integrity Rules (ASX 24, FEX).

Chapter 2: Market Participants

Part 2.1 Notification

Part 2.1 provides that a Market Participant must notify ASIC as soon as practicable upon becoming aware that a Market operator or a regulatory agency is investigating or has instituted proceedings against it.

Part 2.1 substantially reflects Part 2.1 of the Pre-Commencement Market Integrity Rules (ASX 24, FEX).

Part 2.2 Supervision and risk management

Rule 2.2.1 Limits and connections

Subrule 2.2.1(1) provides that a Market Participant must demonstrate certain prudent risk management procedures in respect of order, position and price change limits. The subrule sets out a non-exhaustive list of risk management procedures relating to setting and documenting those limits, including the basis upon which the limits are determined.

Subrule 2.2.1(2) provides that a Market Participant who has permitted its Client to connect to a Terminal is responsible for any orders entered through the Terminal by the Client. The subrule also provides that ASIC may, by notice to a Market Participant require a Market Participant to terminate such connection.

Subrule 2.2.1(3) sets out the obligations a Market Participant must meet prior to permitting any Client to connect to a Terminal.

Subrule 2.2.1(4) sets out the obligations of Market Participant prior to permitting a Client to connect to a Terminal for the purpose of Trading for a House Account.

Rule 2.2.1 substantially reflects Pre-Commencement Market Integrity Rule 2.2.1 (ASX 24, FEX).

Rule 2.2.2 Concentration of risk

Subrule 2.2.2 (1) provides that a Market Participant other than a Principal Trader must not permit any one Client to represent such a percentage of the trading by the Market Participant

as may prejudice or diminish the ability of the Market Participant to meet its obligations under the Rules and at law.

Subrule 2.2.2 (2) clarifies the meaning of the word "client" in to Rule 2.2.2.

Rule 2.2.2 reflects Pre-Commencement Market Integrity Rule 2.2.2 (ASX 24, FEX).

Rule 2.2.3 Prohibited employment

Subrule 2.2.3(1) prohibits a Market Participant from employing a person if that person has to the knowledge of the Market Participant taken part or been concerned in any failure to comply with the:

- (a) the Rules, the Pre-Commencement Market Integrity Rules, or market integrity rules applicable to a Market on substantially the same terms as and modelled on these Rules, which failure has been found to have occurred by ASIC;
- (b) the operating rules of a Market, which failure has been found to have occurred by the Market operator of the relevant Market;
- (c) the operating rules of a Market in force prior to 1 August 2010, which failure has been found by the relevant Market operator to have occurred prior to commencement of these Rules;
- (d) the operating rules of the market operated by Sydney Futures Exchange Limited in force prior to the commencement of the *ASIC Market Integrity Rules (ASX 24 Market) 2010*, which failure has been found to have occurred by the Sydney Futures Exchange Limited; or
- (e) the operating rules of the market operated by ASX Limited in force prior to the commencement of the *ASIC Market Integrity Rules (ASX Market) 2010*, which failure has been found to have occurred by ASX Limited.

Subrule 2.2.3(2) clarifies the meaning of the words "to employ" and cognate expressions in Rule 2.2.3.

Rule 2.2.3 substantially reflects Pre-Commencement Market Integrity Rule 2.2.3 (ASX 24, FEX).

Rule 2.2.4 Order records and accounting records

Subrule 2.2.4 (1) provides that, for client orders, a Market Participant, other than a Principal Trader, must maintain internal records of client instructions and trades, and specifies the information that those records must contain.

Subrule 2.2.4 (2) provides that, a Market Participant must maintain certain records of its Representatives' trading for a House Account and specifies the information that the records must contain.

Subrule 2.2.4 (3) provides that a Market Participant must maintain a separate record of all Error Trades and specifies the information that the record must contain.

Subrule 2.2.4 (4) provides that a Market Participant must maintain such accounting records as correctly record and explain the transactions and financial position of the Market Participant, and sets out specific information which must be contained in accounting records in relation to calls.

Rule 2.2.4 reflects Pre-Commencement Market Integrity Rule 2.2.4 (ASX 24, FEX).

Rule 2.2.5 Client documentation

Subrule 2.2.5(1) requires a Market Participant to have in force, prior to the commencement of trading for Clients, a duly signed agreement with each of its Clients and specifies the minimum terms for the agreement.

Subrule 2.2.5(2) sets out circumstances where subrule (1) does not apply.

Rule 2.2.5 substantially reflects Pre-Commencement Market Integrity Rule 2.2.5 (ASX 24, FEX).

Rule 2.2.6 Clients' segregated account obligations

Rule 2.2.6 sets out the obligations of a Market Participant that holds Client monies in relation to Clients' segregated accounts. The obligations include obligations about the style of the account, a provision preventing netting Client Accounts against House Accounts, permissible payments into the account, the timing of payments into the account, permitted withdrawals,

permissible investments with money in a segregated account, and prohibition on entering into an agreement that client money need not be held in a segregated account.

The Rule also clarifies the meaning of 'Client' and 'property' for the purposes of the Rule.

Rule 2.2.6 reflects Pre-Commencement Market Integrity Rule 2.2.6 (ASX 24, FEX).

Rule 2.2.7 Mandatory recording of information by Market Participants

Rule 2.2.7 sets out obligations of a Market Participant in relation to the recording of all conversations with Clients and other parties relating to Client instructions.

Paragraph 2.2.7(g) clarifies the meaning of "Client" in Rule 2.2.7.

Rule 2.2.7 reflects Pre-Commencement Market Integrity Rule 2.2.7 (ASX 24, FEX).

Rule 2.2.8 Supervisory procedures

Rule 2.2.8 provides that 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 operating rules of each Market of which it is a Participant, and the Corporations Act.

Rule 2.2.8 substantially reflects Pre-Commencement Market Integrity Rule 2.2.8 (ASX 24, FEX).

Rule 2.2.9 Disclosure statement

Rule 2.2.9 requires a Participant of a Market that has clearing and settlement arrangements with an overseas clearing and settlement facility to disclose to each Client located in Australia, before accepting the first order from the Client to enter into a transaction on the Market, the differences between the Clients' transactions being cleared and settled by the overseas clearing and settlement facility and a clearing and a domestic clearing and settlement facility.

Paragraphs 2.2.9(1)(a) and (b) provide that the disclosure made under Rule 2.2.9 must include the foreign country where the operator of overseas clearing and settlement facility has its principal place of business, and that the rights and remedies of investors may differ from those applicable to a domestic clearing and settlement facility.

Subrules 2.2.9(2) and (3) require a Market Participant to obtain a written acknowledgement from the Client that the differences required to be disclosed under the Rule have been disclosed and keep a copy of the disclosure and acknowledgment for 5 years.

Rule 2.2.9 substantially reflects Pre-Commencement Market Integrity Rule 2.2.9 (FEX).

Part 2.3 Account reconciliation obligations

Rule 2.3.1 Application of Part

Rule 2.3.1(1) provides that Part 2.3 applies to a Market Participant who holds Client monies.

Rule 2.3.1(2) provides definitions for terms that are used in Part 2.3. Rule 2.3.1(2) includes definitions for:

- “ASX”;
- “ASX Clear”;
- “Client”;
- “Clients’ Segregated Account at Bank”;
- “Deposits with a Clearing Participant of FEX”
- Deposits with an Overseas Broker;
- “Deposits with a Participant of ASX;
- “Deposits with a Participant of ASX 24”;
- "Deposits with a Participant of ASX Clear
- "Deposits with a Participant of ASX Clear (Futures) Client Account";
- “Deposits with FEX Clearer Client Account”;
- “Director/Employee Monies”;
- “Overseas Broker”;
- “Total Deposits”;
- “Total Futures Client Monies”;
- “Total Third Party Client Monies”; and
- “Variation”.

The definitions in Rule 2.3.1 substantially reflect the definitions in Pre-Commencement Market Integrity Rule 2.3.1 (ASX 24, FEX), with adjustments to take into account the application of the Rules across the Markets.

Rule 2.3.2 Daily reconciliation of client funds

Rule 2.3.2(1) provides that a Market Participant must perform an accurate reconciliation, by 7.00 pm on the business day after the business day to which the reconciliation relates, of the aggregate balance held by it at the close of business on each business day in clients'

segregated accounts maintained under Rule 2.2.6 and the corresponding balance as recorded in the Market Participant's accounting records.

Rule 2.3.2(2) sets out the matters that must be set out in the daily reconciliation required under Rule 2.3.2(1).

Rule 2.3.2 substantially reflects Pre-Commencement Market Integrity Rule 2.3.2 (ASX 24, FEX).

Rule 2.3.3 Monthly reconciliation of client' funds

Rule 2.3.3(1) provides that accurate monthly reconciliations of client's segregated accounts must be performed by a Market Participant.

Rule 2.3.3(2) provides that the reconciliation required under Rule 2.3.2(1) must be given to ASIC by the last business day of the calendar month following the reconciliation month.

Rule 2.3.3(3) provides for the matters that must set out be in the monthly reconciliation required under Rule 2.3.3(1) and those matters mirror the matters that must be set out in the daily reconciliation under Rule 2.3.2(2).

Rule 2.3.3(4) provides for a statement by a director or a person authorised in writing by a director of a Market Participant attesting to the accuracy of the monthly reconciliation.

Rule 2.3.3 substantially reflects Pre-Commencement Market Integrity Rule 2.3.3 (ASX 24, FEX).

Rule 2.3.4 Obligation to notify ASIC about daily reconciliation

Rule 2.3.4 provides that a Market Participant must notify ASIC, in writing, within 2 business days if a daily reconciliation under Rule 2.3.2 has not been performed, shows Total Deposits to be less than Total Third Party Client Monies, or is unable to be reconciled.

Rule 2.3.4 substantially reflects Pre-Commencement Market Integrity Rule 2.3.4 (ASX 24, FEX).

Rule 2.3.5 Annual declarations for clients' funds

Rule 2.3.5(1) provides for the form and content of directors' declarations and auditors

declarations to be lodged with ASIC in relation to compliance with the clients' segregated account Rule 2.2.6. The Rule specifies the declaration and report must contain the information set out in Form 1 Part 1 and Part 2, respectively.

Rule 2.3.5(2) sets out that directors' declarations under Rule 2.3.5(1) must be authorised by two directors of the Market Participant whose names appear in the declaration; or one director of the Market Participant whose name appears in the declaration and one representative of the Market Participant, or two representatives of the Market participant. Where representatives authorise directors declarations they must have been authorised by the board or each authorised by a different director of the Market Participant, to give the declaration.

Rule 2.3.5 reflects Pre-Commencement Market Integrity Rule 2.3.5 (ASX 24, FEX).

Rule 2.3.6 Scope of audits

Rule 2.3.6(1) provides that a Market participant must give its auditor access to its premises and Employees and all records, documents, explanations and other information required by the auditor in respect of any audit conducted under Rule 2.3.5(1)(b).

Rule 2.3.6(2) provides a Market Participant must not impose any limitations on the audit conducted under Rule 2.3.5(1)(b), and must permit and direct the auditor to notify ASIC immediately if any limitation or hindrance or delay is imposed on the auditor.

Rule 2.3.6(3) provides the records of each of the Market Participants nominee companies must be included in the audit conducted under Rule 2.3.5(1)(b).

Rule 2.3.6 reflects Pre-Commencement Market Integrity Rule 2.3.6 (ASX 24, FEX).

Part 2.4 Foreign Participants

2.4.1 Minimum presence requirements

Rule 2.4.1 requires a Market Participant that is a foreign entity and does not hold an Australian financial services licence to 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, before entering into a transaction on a Market.

Rule 2.4.1(2) sets out the requirements for the deed.

Rule 2.4.1 substantially reflects Pre-Commencement Market Integrity Rule 2.4.1 (ASX 24, FEX). Paragraph 2.4.1(2)(c) specifies that that the deed a Foreign Market Participant must provide must contain a covenant 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 a relevant Market or in relation to financial products traded on the relevant Market, including but not limited to any matter relating to the Foreign Market Participant's obligations under specified legislation. That list of specified legislation has been expanded in the Rules from Pre-Commencement Market Integrity Rule 2.4.1(2)(c) (ASX 24 and FEX) to include two Acts enacted in 2017, namely the *ASIC Supervisory Cost Recovery Levy Act 2017*, and the *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017*.

Chapter 3: Trading principles

Part 3.1 Trading principles for Orders entered on the Trading Platform

3.1.1 Expressions of Interest

Subrule 3.1.1(1) prohibits a Market Participant from entering an Order into the Trading Platform based on an Expression of Interest, without first confirming with the client that the Expression of Interest is a firm Order to buy or sell.

Subrule 3.1.1(2) clarifies the meaning of "Client" in Rule 3.1.1

Rule 3.1.1 substantially reflects Pre-Commencement Market Integrity Rule 3.1.1 (ASX 24, FEX).

3.1.2 False or misleading appearance

Paragraph 3.1.2(1)(a) provides that a Market Participant must not offer to purchase or sell a Contract or deal in any Contract as Principal with the intention creating a false or misleading appearance of active trading in any Contract or with respect to the market for, or the price of, any Contract, or if that offer to purchase or sell or dealing has or is likely to have the effect of creating such a false or misleading appearance.

Paragraph 3.1.2(1)(b) provides that a Market Participant must not offer to purchase or sell a Contract or deal in any Contract on account of any other person where the Market Participant intends to create, or is aware that the person intends to create, or ought reasonably suspect,

taking into account the circumstances of the Order, that the person has placed the Order with the intention of creating, a false or misleading appearance of active trading in any Contract or with respect to the market for, or the price of, any Contract.

Subrule 3.1.2(2) provides that a reference in paragraph 3.1.2(1)(a) to a Market Participant offering to purchase or sell a Contract or deal in any Contract as Principal includes a reference to offering to purchase, sell or deal in any Contract on its own behalf or on behalf of certain other persons specified in Rule 3.1.2(2).

Subrule 3.1.2(3) provides that for the purposes of subparagraph 3.1.2(1)(b)(iii) in considering the circumstances of an Order, the Market Participant must have regard to the matters set out in subrule (3), including whether the Order or execution of the Order would be inconsistent with the history of or recent trading in that Contract, and whether the Order is accompanied by settlement, delivery or security arrangements which are unusual.

Rule 3.1.2 reflects Pre-Commencement Market Integrity Rule 3.1.2 (ASX 24, FEX).

3.1.3 Entering Orders without an intent to trade

Subrule 3.1.3(1) prohibits a Market Participant from entering orders where there does not exist an intent to trade.

Subrule 3.1.3(2) provides circumstances which indicate that there does not exist intent to Trade for the purposes of Rule 3.1.3.

Rule 3.1.3 reflects Pre-Commencement Market Integrity Rule 3.1.3 (ASX 24, FEX).

3.1.4 Orders to be transmitted as soon as received

Subrule 3.1.4(1) provides that a Market Participant must transmit orders to the Trading Platform as soon as they are received.

Subrule 3.1.4 (2) sets out the types of orders to which subrule 3.1.4 (1) applies, being orders that can in accordance with instructions, be immediately transmitted to a Trading Platform, and which include 'limit' and 'market' orders.

Subrule 3.1.4 (3) sets out exceptions to subrule 3.1.4 (1), being orders that cannot be transmitted such as 'market on close', 'stop loss', or 'market if touched', 'at best' provided 'at

best' orders are transmitted when the Market Participant form the view that the best price may be achieved, and Orders where client instruction preclude immediate transmission.

Rule 3.1.4 reflects Pre-Commencement Market Integrity Rule 3.1.4 (ASX 24, FEX).

3.1.5 Orders to be transmitted and executed in the sequence received

Subrule 3.1.5(1) provides that a Market Participant must transmit Orders into a Trading Platform in the sequence in which they are received, must not leave an order in a Trading Platform and then promote another Client Order to take the place of a cancelled Client Order, must not promote an Order to take the place of a cancelled Client Order, reduce the volume of an aggregated Order by the amount remaining of a cancelled Order and not engage in broking or offering a favourable queue position.

Subrule 3.1.5(2) provides that orders may be transmitted and executed outside of the sequence in which they are received where Orders are aggregated under Rule 3.1.6.

Rule 3.1.5 reflects Pre-Commencement Market Integrity Rule 3.1.5 (ASX 24, FEX).

3.1.6 Aggregation of Orders

Subrule 3.1.6(1) provides that a Market Participant must not aggregate Orders for entry into a Trading Platform unless permitted under subrules 3.1.6 (2A) or (2B).

Subrule 3.1.6(2A) sets out the type of orders (by reference to Order type, market phase and, or time of receipt) which may be aggregated for placement into the Trading Platform of the ASX 24 Market.

Subrule 3.1.6(2B) provides sets out the type of orders (by reference to Order type, market phase and, or, time of receipt) which may be aggregated for placement into the Trading Platform of the FEX Market.

Rule 3.1.6 substantially reflects Pre-Commencement Market Integrity Rule 3.1.6 (ASX 24, FEX) with amendments to accommodate the consolidated nature of the Rules.

3.1.7 Disclosure

Subrule 3.1.7(1) provides that a Market Participant must not disclose any information about Orders or Expressions of Interest unless otherwise permitted or required under the Rules or the law, or pursuant to subrule 3.1.7 (2). Subrule 3.1.7(1) is also subject to paragraphs 3.3.1

(1) (b) and 3.4.1 (c), which deal with disclosure in the context of pre-negotiated business and Block Trading, respectively.

Subrule 3.1.7(2) provides that no Market Participant may disclose to another party information which is not generally available, or should not reasonably be considered to be generally available, to Market Participants, and that only details of Orders and Expressions of Interest that have been disclosed on the Trading Platform may be disclosed to Clients.

Subrule 3.1.7(3) provides that the disclosure of information about a Client's Order, where the Order has been entered into the Trading Platform, but not at a level that is visible to other Market Participants, is disclosure of information which is not generally available, nor reasonably considered to be generally available.

Subrule 3.1.7(4) clarifies the meaning of "order" in Rule 3.1.7.

Rule 3.1.7 reflects Pre-Commencement Market Integrity Rule 3.1.7 (ASX 24, FEX).

3.1.8 Withholding Orders

Subrule 3.1.8(1) provides that a Market Participant must not withhold an Order with an intent to obtain a counterparty or counterparties. Rule 3.1.8 is subject to paragraphs 3.3.1(1)(a) and 3.4.1(b), which deal with withholding of orders in the context of pre-negotiated business and Block Trading, respectively

Subrule 3.1.8(2) provides that a Market Participant must not withhold two or more Orders with the intent to avoid trading with the Market.

Rule 3.1.8 reflects Pre-Commencement Market Integrity Rule 3.1.8 (ASX 24, FEX).

3.1.9 Withdrawing Orders

Rule 3.1.9 provides that a Market Participant must not withdraw Orders for the benefit of another person.

Rule 3.1.9.10 reflects Pre-Commencement Market Integrity Rule 3.1.9 (ASX 24, FEX).

3.1.10 Pre-arrangement

Rule 3.3.10 provides that a Participant of a Market must not arrange the details of a potential trade between two or more parties unless Participants of the same Market have been made generally aware of all relevant details of the potential trade, or unless specifically permitted

otherwise under the Rules. Rule 3.3.10 is subject to paragraphs 3.3.1(1)(b) and 3.4.1(a), dealing with the disclosure of details of orders in the context of pre-negotiated business and Block Trading, respectively.

Rule 3.1.10 reflects Pre-Commencement Market Integrity Rule 3.1.10 (ASX 24, FEX).

3.1.11 Trading to the exclusion of others

Rule 3.1.11 provides that a Participant of a Market must not execute or attempt to execute trades with the intent to exclude other Participants of the same Market or their Representatives.

Rule 3.1.11 reflects Pre-Commencement Market Integrity Rule 3.1.11 (ASX 24, FEX).

3.1.12 Wash Trades

Subrule 3.1.12(1) provides that a Market Participant must not allow trades to occur such that both sides of the trade are on behalf of the same account (a “wash trade”).

Subrule 3.1.12 (2) sets out exceptions to the prohibition in subrule 3.1.12(1).

Paragraph 3.1.12(3)(a) requires a Participant of the FEX Market to report all breaches of subrule (1) occurring on the FEX Market, to ASIC subject to subrules 3.1.12(4) to (6).

Paragraph 3.1.12(3)(b) requires a Participant of the ASX 24 Market report the wash trades specified in the subrule, to ASIC, subject to subrules 3.1.12(4) to (6).

Subrule 3.1.12(4) provides that where a Participant of the ASX 24 Market breaches Rule 3.1.12 (1) that Market Participant must maintain a wash trade register in respect of any wash trade executed under their mnemonic, recording details of breaches of Rule 3.1.12(1) that were not reported to ASIC under paragraph (3)(b).

Subrule 3.1.12(5) sets out circumstances in which a Market Participant is not required to report to ASIC under paragraph 3.1.12(3)(b).

Subrule 3.1.12(6) provides that where an error results in a Market Participant allocating both sides of a trade to its error account, the Market Participant is not required to report a wash trade to ASIC but must record the trade on its wash trade register.

Subrule(7) sets out the information to be recorded in the Market Participant's "wash trade register" for the purposes of Rules 3.1.12(4) to (6).

Rule 3.1.12 substantially reflects Pre-Commencement Market Integrity Rule 3.1.12 (ASX 24, FEX) with minor amendments to accommodate the consolidated nature of the Rules.

3.1.13 Acting in accordance with Client instructions and Client's best interests

Subrule 3.1.13(1) provides that a Market Participant must act on behalf of a Client only in accordance with that Client's instructions, unless to do so would be contrary to the Rules, and prohibits a Market Participant from acting in a manner which has, or is intended to have, a detrimental effect, on the Client's best interests.

Subrule 3.3.13(2) clarifies the meaning of "Client" in Rule 3.1.14.

Rule 3.1.13 substantially reflects Pre-Commencement Market Integrity Rule 3.1.13 (ASX 24, FEX).

3.1.14 Personal account Trading

Subrule 3.1.14(1) prohibits a person from initiating a trade on a Market in any Contract for that person's account where that person has or is likely to have knowledge or information about any Client Orders of a Market Participant, or instructions to trade in the same or similar commodity.

Subrule 3.1.14(2) sets circumstances in which a person shall be deemed to have traded for that person's account for the purposes of subrule 3.1.14(1).

Subrule 3.1.14(3) clarifies the meaning of "Client", "a person having a financial interest in an account" and "relative" in Rule 3.1.14.

Rule 3.1.14 reflects Pre-Commencement Market Integrity Rule 3.1.14 (ASX 24, FEX).

3.1.15 Dual Trading prohibition

Subrule 3.1.15(1) provides that Market Participant's Representative must not initiate a trade for any Market Participant's House Account in a Contract, where that Representative is holding or is likely to hold the Market Participant's Client Orders to trade, or for any reason is likely to have knowledge or information of the Market Participant's Client Orders to trade, in the same or similar commodity unless permitted under subrule 3.1.15(3).

Subrule 3.1.15(2) provides that a Market Participant must ensure that Employees initiating Trading for Client Orders cannot initiate trades for the Market Participant's House Account and that an Employee who initiates trades for the Market Participant's House Account will not be privy to information concerning Client Orders.

Subrule 3.1.15(3) provides that a Market Participant which executes a trade to cover an Error Trade is not in breach of subrule 3.1.15(1).

Subrule 3.1.15 (4) clarifies the meaning of "Client", "House Account", "initiate", and "similar commodity" in Rule 3.1.15. The clarification of 'similar commodity' is an inclusive definition that gives an example of the reasoning to be deployed in considering whether a commodity is a similar commodity, and does not limit the meaning of 'similar commodity' to the named examples. For example if a contract is oil-based or coal-based, the definition catches all other oil or coal based contracts respectively.

Rule 3.1.15 substantially reflects Pre-Commencement Market Integrity Rule 3.1.15 (ASX 24, FEX).

3.1.16 Trades to be allocated in sequence of Order receipt

Subrule 3.1.16(1) provides that, subject to subrule 3.1.16(3) a Market Participant and its Representative must allocate trades to Clients in the sequence in which the Orders are received.

Subrule 3.1.16(2) clarifies the meaning of "Client" in Rule 3.1.16.

Subrule 3.1.16(3) sets out the circumstances in which a Market Participant may allocate out of sequence, and the two pro-rata methods of allocating they may use. Subrule 3.1.16(3) also provides that a Market Participant must advise each Client whose Orders may be allocated out of sequence, nominating the pro-rata method selected, and retain a record of the advice sent to the Client for the period set out in the subrule.

Subrule 3.1.16(4) provides that a Market Participant must notify ASIC prior to adopting or changing its policy of allocating Orders using one of the pro rata methods set out in subrule 3.1.16(3).

Rule 3.1.16 reflects Pre-Commencement Market Integrity Rule 3.1.16 (ASX 24, FEX).

3.1.17 Post-allocation prohibition

Subrule 3.1.17(1) provides that a Market Participant must not offer and/or allocate trades to a Client unless those trades have been obtained under instructions previously obtained from that Client.

Subrule 3.1.17(2) clarifies the meaning of "Client" in Rule 3.1.17.

Rule 3.1.17 reflects Pre-Commencement Market Integrity Rule 3.1.17 (ASX 24, FEX).

Part 3.2 Strategy Trading

3.2.1 Strategy Trade records

Subrule 3.2.1(1) provides that a Market Participant must maintain a record of all Strategy Trades, for a period of five years.

Subrule 3.2.1(2) provides that Market Participants must allocate each leg of a Strategy Trade to the same account.

Rule 3.2.1 reflects the rules in Part 3.2(1) and (2) of the Pre-Commencement Market Integrity Rules (ASX 24, FEX).

Part 3.3 Pre-negotiated business orders

3.3.1 Pre-negotiated business

Subrule 3.3.1(1) sets out actions that a Market Participant may take where the Market Participant receives an instruction from a Client which can be executed as pre-negotiated business on a Market. Those actions are to withhold transmission of the instructions in order to solicit Orders from Clients and other Participants of that Market, and to disclose details of Clients' instructions and to aggregate orders from Clients in satisfaction or part satisfaction of the originating Client Order.

Subrule 3.3.1(2) clarifies the meaning of "pre-negotiated business" in Rule 3.3.1.

Rule 3.3.1 reflects Pre-Commencement Market Integrity Rule 3.3.1 (ASX 24, FEX).

3.3.1A Entry of orders

Subrule 3.3.1A(1) provides the steps a Market Participant must undertake to execute a pre-negotiated business order. These steps include the manner of making enquiries of other Market Participants, the period of time a Participant must wait after making the enquiries, and a requirement the Order then be entered into a Trading Platform immediately.

Subrule 3.3.1A(2) specifies the information that must be included in an enquiry made under subrule (1).

Subrule 3.3.1A(3) provides a Participant must give priority to Orders entered by another Participant following an enquiry made by the first Participant under subrule (1).

Rule 3.3.1A substantially reflects Pre-Commencement Market Integrity Rule 3.3.1A (ASX 24, FEX).

3.3.2 Client authorisation

Rule 3.3.2 provides that, before entering a pre-negotiated business Order on behalf of a Client under Rule 3.3.1, a Market Participant must be authorised in writing by the Client to do so, either specifically or generally. The Rule also provides the Client authorisation must state that the Client authorises Orders to be pre-negotiated on the Client's behalf.

Rule 3.3.2 reflects Pre-Commencement Market Integrity Rule 3.3.2 (ASX 24, FEX).

3.3.3 Definition of Client

Rule 3.3.3 clarifies the meaning of “Client” in Part 3.3. For the purposes of the Part, Client includes a related body corporate of a division of the Market Participant which is separate from the Market Participants futures division, and that for the purposes of trading out of an Error Trade a Participants futures division is classified as a Client.

Rule 3.3.3 reflects Pre-Commencement Market Integrity Rule 3.3.3 (ASX 24, FEX).

Part 3.4 Trading principles for Block Trades

3.4.1 Participant entitlements

Rule 3.4.1 sets out actions that a Market Participant may take where the Market Participant receives a Block Trade Order from a Client. The actions are, soliciting counterparties, withholding transmission to solicit, disclosing details of a Block Trade order as authorised by

a Client, and aggregation of Orders in circumstances where each Order is greater to or equal to the Minimum Volume Threshold for that Contract.

Rule 3.4.1 reflects Pre-Commencement Market Integrity Rule 3.4.1 (ASX 24, FEX).

3.4.2 Prohibitions

Subrule 3.4.2(1) provides that Market Participants must not aggregate separate Orders in order to meet Minimum Volume Thresholds.

Subrule 3.4.2(2) provides Market Participants must not use the Block Trade Facility to execute Roll Business.

Rule 3.4.2 reflects Pre-Commencement Market Integrity Rule 3.4.2 (ASX 24, FEX).

3.4.3 Unfilled Block Trade Orders

Subrule 3.4.3(1) provides that, where counterparties have been solicited under Rule 3.4.1(a) amongst other Market Participants of the relevant Market and the Block Trade Order remains unfilled, then the Block Trade Order may revert to an Order.

Subrule 3.4.3(2) provides that the Orders solicited from counterparties referred to in Rule 3.4.3(1) must not be entered into the Trading Platform unless a period of 60 seconds has elapsed from the entry of the originating Block Trade Order.

Rule 3.4.3 reflects Pre-Commencement Market Integrity Rule 3.4.3, with amendments to reflect the operation of the Rule in relation to each Market.

3.4.4 Client authorisation

Rule 3.4.4 provides that 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. Rule 3.4.4 also sets out the acknowledgements by the Client that such authorisation must include.

Rule 3.4.4 reflects Pre-Commencement Market Integrity Rule 3.4.4 (ASX 24, FEX).

Part 3.5 Trading principles for Exchange For Physical transactions

3.5.1 Prohibitions

Rule 3.5.1 prohibits an exchange for a Physical transaction where the parties to each side of the physical transaction are the same or acting on behalf of the same person, or where both sides of a Contract are taken out by the same Participant on its own account, or are taken out on behalf of the same Client.

Rule 3.5.1 reflects Pre-Commencement Market Integrity Rule 3.5.1.

3.5.2 Evidence of physical transaction

Subrule 3.5.2(1) requires a Participant to ensure that evidence of physical transactions is obtained by the Participant where the Participant or its Client is party to an Exchange for Physical transaction.

Subrule 3.5.2(2) provides an alternative procedure by which the requirements under Rule 3.5.2(1) can be met, and specifies retaining and maintaining, a list of Representatives authorised to register Exchange for Physical transactions, obtaining and retaining copies of Client undertakings to provide documentary evidence of details of the physical transaction and requesting appropriate evidence on an as needs basis.

Rule 3.5.2 reflects Pre-Commencement Market Integrity Rule 3.5.2 (ASX 24, FEX).

Rule 3.5.3 Client authorisation

Rule 3.5.3 provides that 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.

Rule 3.5.3 reflects Pre-Commencement Market Integrity Rule 3.5.3 (ASX 24, FEX).

Chapter 4: The Market operator

Part 4.1 Provision of surveillance and supervision data by the Market operator

4.1.1 Data provision to assist surveillance of activities and conduct on the Market

Subrule 4.1.1(1) sets out the data a Market operator must deliver to ASIC or to a service provider nominated by ASIC to assist surveillance of activities and conduct on the Market.

Subrule 4.1.1(1A) requires a Market operator to keep records of all data items referred to in subrule (1) for a period of seven years.

Subrule 4.1.1(2) provides that the data required by Rule 4.1.1(1) must be in such format as ASIC notifies the Market operator.

Subrule 4.1.1(2) provides that the data required by Rule 4.1.1(1) must be delivered in a manner and/or to a location notified by ASIC to the Market operator.

Rule 4.1.1 substantially reflects Pre-Commencement Market Integrity Rule 4.1.1 (ASX 24, FEX). Subrule 4.1.1(1A) is a new Rule.

4.1.2 Notification

Rule 4.1.2 provides that certain notifications by ASIC to the Market operator must be in writing, and allow the Market operator a reasonable period to comply.

Rule 4.1.2 substantially reflects Pre-Commencement Market Integrity Rule 4.1.2 (ASX 24, FEX).

Part 4.2 Provision of information about Market Participants

4.2.1 Market operators to maintain records about Participants

Rule 4.2.1 requires a Market operator to maintain certain information about each Participant of its Market and advise ASIC in writing of any changes which are made to that information. The information is the Participant name, its unique identifier, and type (Trading Participant or Principal Trader).

Rule 4.2.1 4.2 substantially reflects Part 4.2 of Pre-Commencement Market Integrity Rules (ASX 24, FEX).

Part 4.3 Record keeping

4.3.1 Market operators to keep records which demonstrate compliance

Rule 4.3.1 provides that a Market operator must keep records which allow it to demonstrate its compliance with the Rules and Part 7.2 of the Corporations Act, including without limitation records of the matters set out in the Rule. The Rule sets out records including without limitation, records demonstrating adequate arrangements for operating the market, monitoring and enforcing the Market operating rules, decisions made by the Market operator about Trading Pauses and Trading Suspensions, cancellation of transactions, and outsourcing

arrangements. The Rule also requires records to be kept of a Market operators' board's consideration of the adequacy of financial, technological and human resources for the operation of the Market, and records that demonstrate a Market operator's compliance with its licence conditions.

Rule 4.3.1 is a new provision and is not reflected in the Pre-Commencement Market Integrity Rules (ASX 24, FEX).

4.3.2 Records to be retained for prescribed period

Rule 4.3.2 provides that a Market operator must keep records referred to in Part 4.3 for 7 years from the date the record is made.

Rule 4.3.2 is a new provision and is not reflected in the Pre-Commencement Market Integrity Rules.

4.3.3 Records kept outside of Australia

Rule 4.3.3 provides that a Market operator must, if directed in writing by ASIC to produce records kept by that Market operator under Part 4.3 outside Australia, must produce those records at a place in Australia by a specified time and comply with that direction within the time specified in the direction if that is a reasonable time; or in any other case, within a reasonable time.

Rule 4.3.3 is a new provision and is not reflected in the Pre-Commencement Market Integrity Rules.

Chapter 5 Crossing Systems

Part 5.1.1AA Application

Rule 5.1AA.1 Application of Chapter

Rule 5.1AA.1 provides that Chapter 5 of the Rules applies to Participants of the ASX 24 Market and Orders and transactions in financial products able to be traded on the ASX 24 Market, unless another application is specified in a Rule in the Part.

Rule 5.1AA.1 reflects the application of Pre-Commencement Market Integrity Rule 4A.1.1 (Competition), insofar as that Pre-commencement rule applied to Participants and Orders on the ASX 24 Market. The Crossing System rules do not apply to participants of the FEX Market or Orders and transactions in financial products only able to be traded on the FEX Market.

Rule 5.1.1 – Reporting requirements for Crossing Systems—Crossing System Initial Report

Subrule 5.1.1(1) provides that a Market Participant that operates, or proposes to operate, Crossing System in this jurisdiction must provide a Crossing System Initial Report which describes the nature, operation and users of the Crossing System.

Subrule 5.1.1(2) provides that a Market Participant who must provide a Crossing System Initial Report to ASIC under Subrule 5.1.1(1) must provide the Crossing System Initial Report to ASIC no later than 20 business days before the day the Market Participant begins to operate the Crossing System.

Rule 5.1.1 substantially reflects Pre-Commencement Market Integrity Rule 4A.2.1 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.1.2 – Reporting requirements for Crossing Systems – Crossing System Monthly Report

Rule 5.1.2 provides that a Market Participant that operates a Crossing System during a calendar month must, if there have been any changes during that month to the information last provided to ASIC in a Crossing System Initial Report or a Crossing System Monthly Report:

- (a) prepare, within 20 business days of the end of the calendar month, a Crossing System Monthly Report setting out the changes to the information provided in the Participant's Crossing System Initial Report or Crossing System Monthly Report last provided to ASIC;
- (b) provide the Crossing System Monthly Report prepared under (a) to ASIC as soon as practicable after it has been prepared.

Rule 5.1.2 substantially reflects Pre-Commencement Market Integrity Rule 4A.2.2 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Part 5.2 – Disclosure requirements for Crossing Systems

Rule 5.2.1 – Disclosure requirements for Crossing Systems—Information on a website

Subrule 5.2.1(1) provides that a Market Participant that operates a Crossing System must keep for a period of 7 years and make available Publicly Available Crossing System Information in relation to that Crossing System on a website that is publicly accessible and free of charge.

Subrule 5.2.1(2) provides that, for the purposes of subrule (1) 'Publicly Available Crossing System Information' means the information set out in the Table in subrule (2). The table specifies the code identifying the Crossing System, the date the Crossing System commenced operation in this jurisdiction, the financial products traded on the Crossing System, the access criteria used to determine eligibility to use the Crossing System, and the ways the Crossing System interacts with other Crossing Systems and aggregators

Subrule 5.2.1(3) provides that a Market Participant must, within one business day of implementing changes to the operation of the Crossing System described in the Publicly Available Crossing System Information, update the website where the Publicly Available Crossing System Information is made available, to reflect those changes.

Subrule 5.2.1(4) provides that a Market Participant must give ASIC a copy of the Publicly Available Crossing System Information published under subrule (1) and each update to the Publicly Available Crossing System Information made available under subrule (3) within one business day of making that information available on the website under the Rule.

Subrule 5.2.1(5) provides that ASIC may determine in writing a notification of market operator codes referred to in subrule (2). The note to the subrule indicates the notifications referred to in the subrule are available of the Federal Register of Legislation. .

Rule 5.2.1 substantially reflects Pre-Commencement Market Integrity Rule 4A.3.1 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.2.2 – Disclosure requirements for Crossing Systems—Information for users

Subrule 5.2.2(1) provides a Market Participant that operates a Crossing System must:

- (a) prior to accepting an Order from a client for the first time after the time at which a Market Participant must comply with this Rule, provide the client with a copy of the Publicly Available Crossing System Information or inform the client of the website address where that information is available; and
- (b) for all clients who are informed under paragraph (a), inform those clients each time an update to the Publicly Available Crossing System Information is published under Rule 5.2.1(3), prior to accepting an Order from that client after the information has been updated.

Subrule 5.2.2(2) provides that a Market Participant that operates a Crossing System must:

- (a) prior to accepting an Order from a client for the first time; and
- (b) prior to accepting an Order from a client after the Non-Public Crossing System Information has been updated under subrule (3),

provide that client with a document containing Non-Public Crossing System Information.

Subrule 5.2.2(3) provides that a Market Participant must, within one business day of implementing changes to the operation of the Crossing System described in the Non-Public Crossing System Information, update the Non-Public Crossing System Information to reflect those changes.

Subrule 5.2.2(4) provides that a Market Participant must give ASIC a copy of:

- (a) the Non-Public Crossing System Information provided under subrule (2), within one business day of first providing that information; and
- (b) each update to the Non-Public Crossing System Information provided under subrule (3), within one business of that update.

Subrule 5.2.2(5) provides that for the purposes of the Rules, "Non-Public Crossing System Information" means the information set out in the Table in subrule (5). The Table specifies a description of users' obligation, order types, the operation of the Crossing System and the fees imposed to gain access to the Crossing System.

Rule 5.2.2 substantially reflects Pre-Commencement Market Integrity Rule 4A.3.2 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.2.3 – Notification of Crossing System outages

Rule 5.2.3 provides that if technical or other system issues materially affect the efficiency of or proper functioning of a Crossing System operated by a Market Participant, that Participant

must provide the following information, in writing, to ASIC and all users with Orders in the Crossing System other than users who are retail clients:

- (a) a description of the effect of the technical or other system issues;
- (b) how the technical or other system issues are being managed by the Market Participant;
- (c) any alternative arrangements for users' Orders that have been put in place by the Market Participant while the technical or other systems issues persist; and
- (d) when the technical or other system issues have been resolved,

as soon as practicable after the system issue arises, or the issue is resolved, as applicable.

Rule 5.2.3 substantially reflects Pre-Commencement Market Integrity Rule 4A.3.3 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Part 5.3 – Fair treatment, fairness and priority in dealing and opting out by users of Crossing Systems

Rule 5.3.1 – Fair treatment of all users of a Crossing System

Subrule 5.3.1(1) provides that a Market Participant that operates a Crossing System must ensure that the Crossing System is operated by a common set of procedures that balance the interests of all users of the Crossing System and do not unfairly discriminate between users of the Crossing System.

Subrule 5.3.1(2) provides that subrule (1) does not prevent a Participant that operates a Crossing System from providing less favourable treatment for its own use of the Crossing System, or less favourable treatment for use of the Crossing System by its Related Bodies Corporate.

Rule 5.3.1 substantially reflects Pre-Commencement Market Integrity Rule 4A.4.1 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.3.2 – Fairness and priority in dealing

Rule 5.3.2 provides, in subrule (1) that a Market Participant that operates a Crossing System must ensure that the Crossing System deals fairly and in due turn with Clients' Orders; and a Client Order and an order of the Participant trading as Principal

Rule 5.3.2 substantially reflects Pre-Commencement Market Integrity Rule 4A.4.2 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.3.3 – Relevant factors

Subrule 5.3.3(1) sets out the factors that are relevant in considering whether Rule 5.3.2. has been complied with. The factors set out in the subrule are that:

- (a) the Market Participant acts in accordance with its instructions;
- (b) Orders that do not involve the exercise of discretion by the Market Participant in relation to the time or price or quantity of the Order are entered in the Crossing System in the sequence in which they are received, and otherwise as expeditiously as practicable;
- (c) Orders of a client (which is not a Prescribed Person) that involve the exercise of discretion by the Market Participant in relation to the time or price or quantity of the Order are given preference, within the meaning of subrule (2), over the Market Participant's Orders as Principal, unless the client otherwise consents;
- (d) if the sequence of entry of Orders into the Crossing System is not clearly established by the time the Orders were received, and one of the Orders is for the Market Participant trading as Principal, the Market Participant gives preference to the Order of a client over the Market Participant's Orders as Principal;
- (e) if the Market Participant has acted in accordance with its procedures to ensure that a person initiating, transmitting or executing an Order who is aware of instructions of a client (which is not a Prescribed Person) to deal in the relevant financial products that has not been entered in the Crossing System does not use that information to the disadvantage of that client;
- (f) the Market Participant buys or sells for a wholesale client;
- (g) allocation of transactions executed on the Crossing System occurs fairly; and
- (h) a Participant's Orders as Principal are not knowingly interposed between Orders of its clients that would otherwise have Crossed.

Subrule 5.3.3(2) provides that in Rule 5.3.3 (1)(c), a reference to a Market Participant giving preference to an Order of a client over the Market Participant's Orders as Principal, means that from the time of receipt of the Order until it is fully executed, the Market Participant does not enter into, as Principal, a transaction executed on the Crossing System for the same financial products on the same terms, having regard to subrule (3), unless:

- (a) the financial products are allocated to the client in accordance with the client's instructions; or
- (b) the financial products are allocated to the client pursuant to an allocation policy previously disclosed to the client, to which the client consents, under which the

Market Participant may buy or sell (and be allocated) the same Financial Products as Principal.

Subrule 5.3.3(3) provides that for the purposes of subrule (2), a limit Order which cannot be executed owing to price differences is not on the same terms.

Rule 5.3.3 substantially reflects Pre-Commencement Market Integrity Rule 4A.4.3 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.3.4 – Opting out of Crossing Systems

Rule 5.3.4 provides that a Market Participant that operates a Crossing System must permit a client or other user of the Crossing System to opt out of having its Orders sent to the Participant's Crossing System (including any other Crossing System that may be accessible through the Participant's Crossing System), and the Market Participant must not impose on a user that opts out any additional operational or administrative requirements as a consequence of opting out of the Crossing System.

Rule 5.3.4 substantially reflects Pre-Commencement Market Integrity Rule 4A.4.4 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market. It is a new Rule for FEX Participants.

Part 5.4 – Crossing Systems—Monitoring and suspicious activity reporting

Rule 5.4.1 – Monitoring activities in a Crossing System

Subrule 5.4.1(1) provides that a Market Participant that operates a Crossing System must monitor use of its Crossing System for compliance with the obligations of users described in subrule 5.2.2(5); monitor use of its Crossing System for compliance with the operating procedures of the Crossing System; and take action to ensure breaches identified under paragraphs (a) and (b) do not recur.

Subrule 5.4.1(2) provides a Market Participant must notify ASIC, in writing, of all significant breaches identified by the Participant during the course of monitoring undertaken under subrule 5.4.1(1) as soon as practicable after identification of the relevant breach.

Subule 5.4.1(3) provides that a Market Participant must keep records that demonstrate the monitoring activities it undertakes under Rule 5.4.1, and of all breaches identified under Rule 5.4.1 for a period of seven years.

Rule 5.4.1 substantially reflects Pre-Commencement Market Integrity Rule 4A.5.1 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.4.2 – Crossing System suspicious activity reporting

Subrule 5.4.2(1) provides that if a Market Participant that operates a Crossing System has reasonable grounds to suspect that:

- (a) a person has placed an Order into or entered into a transaction on the Crossing System operated by the Participant in relation to a financial product while in possession of inside information (within the meaning of section 1042A of the Act), whether or not the Market Participant is aware of the identity of the Insider, or all of the details of the Order or transaction; or
- (b) a transaction or an Order transmitted to or executed on the Crossing System operated by the Market Participant has or is likely to have the effect of:
 - (i) creating an artificial price for trading in financial products on a financial market operated in this jurisdiction;
 - (ii) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in financial products on a financial market operated in this jurisdiction;
 - (iii) creating, or causing the creation of, a false or misleading appearance of active trading in financial products on a financial market operated in this jurisdiction; 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 financial market operated in this jurisdiction,

whether or not the Market Participant is aware of the intention of any party to the transaction or Order, or 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 Participant) and the reasons it suspects the matter set out in paragraphs (a) and/or (b).

Subrule 5.4.2(2) provides 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*.

Rule 5.4.2 substantially reflects Pre-Commencement Market Integrity Rule 4A.5.2 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Rule 5.4.3 – Confidentiality

Rule 5.4.3 provides that a Relevant Participant who notifies ASIC under Rule 5.4.2(1) must not disclose that the notification was made, or the information contained in the notification, to any person other than for the purposes of seeking legal advice or as required by law.

Rule 5.5.3 substantially reflects Rule 4A.5.3 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market.

Part 5.5 – Crossing System system controls

Rule 5.5.1 – Crossing System—Efficiency and integrity controls

Subrule 5.5.1(1) provides that a Market Participant that operates a Crossing System must at all times have appropriate automated filters designed to ensure the efficiency and integrity of the Crossing System.

Subrule 5.5.1(2) provides that a Market Participant that operates a Crossing System must ensure it has controls that enable immediate:

- (a) suspension of, limitation of, or prohibition on, the entry into any Crossing System operated by the Market Participant of Orders in a series of related Orders where the Market Participant has identified that Orders in the series have entered the Crossing System operated by the Market Participant and have interfered with or are likely to interfere with the efficiency or integrity of the Crossing System; and
- (b) cancellation of Orders in a series that have already entered a Crossing System operated by a Market Participant where the entry of further Orders in the series has been suspended, limited or prohibited under paragraph (a).

Rule 5.5.1 substantially reflects Pre-Commencement Market Integrity Rule 4A.6.2 (Competition) insofar as that Pre-commencement rule applied to Participants of the ASX 24 Market, and adapted to inclusion in a rulebook applicable to futures markets.

Chapter 7: Margins and right of Close Out

Part 7.1 Interpretation

Rule 7.1.1 Definitions

Rule 7.1.1 provides definitions for terms used in Chapter 7. Rule 7.1.1 includes definitions of:

- “Approved Ratings Agency”;
- “Approved Securities”;
- “Clearing Facility”;
- “Initial Margin”; and
- “Variation Margin”.

The definitions in Rule 7.1.1 substantially reflect the definitions in the Pre-Commencement Market Integrity Rule 7.1.1 (ASX 24, FEX).

Part 7.2 Obligations for Trading Participants

Rule 7.2.1 Margin obligations

Rule 7.2.1 provides that a Trading Participant, other than a Principal Trader, must comply with the margin obligations in Part 7.2.

Rule 7.2.1 reflects Pre-Commencement Market Integrity Rule 7.2.1 (ASX 24, FEX).

Rule 7.2.2 Calling Initial Margin

Subrule 7.2.2(1) provides that as soon as possible after the execution of the Client’s instructions on a Market, a Trading Participant of that Market must call at least the minimum initial margin that is determined from time to time under the Clearing Rules of that Market.

Subrule 7.2.2(2) provides that in calculating the amount of Initial Margin, a Trading Participant must not offset the Initial Margin on another Contract due by the Client to the Trading Participant unless that other Contract is for the opposite position in the same delivery month and in respect of the same commodity.

Subrule 7.2.2(3) provides that nothing in subrule 7.2.2(1) prevents a Trading Participant from Calling an amount higher than the minimum Initial Margin referred to in subrule 7.2.2(1).

Subrule 7.2.2(4) provides that a Trading Participant must not accept anything but cash in satisfaction of Initial Margin from a Client, unless the Trading Participant has agreed to accept and has received Cover by way of Approved Securities.

Rule 7.2.2 substantially reflects Pre-Commencement Market Integrity Rule 7.2.2 (ASX 24, FEX).

Rule 7.2.3 Calling Variation Margin

Rule 7.2.3(1) provides that a Trading Participant must Call Variation Margin from the Client when the Client has a net debit Variation Margin position, unless the Client is a Clearing Participant of the Clearing Facility for that Market and the Contracts are registered with the Clearing Facility for that Market in the name of that Clearing Entity Participant.

Rule 7.2.3(2) provides that where the amount of a Call in Rule 7.2.3(1) would be \$1,000 or less, the making of such a Call is at the discretion of the Trading Participant.

Rule 7.2.3 substantially reflects Pre-Commencement Market Integrity Rule 7.2.3 (ASX 24, FEX).

Rule 7.2.4 Liability for Margins

Rule 7.2.4 provides that a Trading Participant's Client agreement must state that a Client's liability for Initial Margin arises upon the execution of the Client's instructions irrespective of when a Call is made for it, and that liability for Variation Margin arises at the same time that Variation Margin comes into existence, irrespective of when a call for Variation Margin is made.

Rule 7.2.4 reflects Pre-Commencement Market Integrity Rule 7.2.4 (ASX 24, FEX).

Rule 7.2.5 Satisfaction of Calls for Margin

Subrule 7.2.5(1) provides that a Trading Participant's client agreement must state that Calls for Initial Margin and Variation Margin must be satisfied by payment unless the participant has agreed to accept, and receives, in lieu of payment, Approved Securities.

Subrule 7.2.5(2) provides that a Trading Participant's client agreement must permit the Trading Participant to retain the Client's Approved Securities until the Client's liability to the participant is extinguished or if it is not extinguished, permitting the participant to realise the Approved Securities and apply the proceeds against the Client's liability.

Subrule 7.2.5(3) provides that Trading Participant must ensure liability of a Client for Initial Margin is Covered at all times.

Rule 7.2.5 reflects Pre-Commencement Market Integrity Rule 7.2.5 (ASX 24, FEX).

Rule 7.2.6 Time for payment of Margins

Subrule 7.2.6(1) provides that the time for payment of Calls by a Client of a Participant must not be greater than 24 hours for a Client within Australia or 48 hours if the Client's address is outside Australia.

Subrule 7.2.6(2) provides that a Trading Participant must not provide credit for a Client beyond the 24 and 48 hour periods specified in Rules 7.2.6(1)(a) and (b).

Subrule 7.2.6(3) provides that a Trading Participant's Client agreement must provide that time shall be of the essence in respect of payment or lodgement under Part 7.2

Subrule 7.2.6(4) provides that a Trading Participant will not breach subrule 7.2.6(2) where the Trading Participant exercises a reasonable discretion not to Close Out in accordance with subrule 7.2.8(3).

Rule 7.2.6 substantially reflects Pre-Commencement Market Integrity Rule 7.2.6.

Rule 7.2.7 Spread Margins

Rule 7.2.7(1) provides that a Trading Participant must call an Initial Margin not less than the amount determined by the Clearing Facility for that Market if the participant holds a Spread position executed on a Market on behalf of the Client.

Rule 7.2.7(2) provides that if one leg of a Spread position executed on a Market is in the first delivery (spot) month a Trading Participant must call the Initial Margin determined by the Clearing Facility for that Market for that leg, and the other leg of the Spread attracts the normal Initial Margin.

Rule 7.2.7 substantially reflects Pre-Commencement Market Integrity Rule 7.2.7 (ASX 24, FEX).

Rule 7.2.8 Obligation of Close Out

Rule 7.2.8(1) provides that a Trading Participant must immediately Close Out a Client's positions to the extent necessary to meet an unpaid Call by a Client, if the Client has not paid a Call by the 24 or 48 hour time period permitted under Rule 7.2.6(1).

Rule 7.2.8(2) provides that a Trading Participant's Client agreement must provide that the Trading Participant shall not be liable to the Client for any loss sustained by the Client as a result of the Trading Participant Closing Out in accordance with Rule 7.2.8(1).

Rule 7.2.8(3) provides a Trading Participant with a discretion in relation to closing out a Client's positions taking into account the financial position and expertise of the Client, whether any genuine attempts to pay the Call have been made and whether a third party's acts or omissions caused the failure to pay.

Rule 7.2.8 reflects Pre-Commencement Market Integrity Rule 7.2.8 (ASX 24, FEX).

Rule 7.2.9 Margin Requirements -Trading on financial markets other than Markets operated by the Market operator, Margin Action Book and Margin Default Register

Rule 7.2.9(1) provides that a Trading Participant of a Market that deals in Contracts on behalf of Clients on a market other than the relevant Market, the Trading Participant must comply with the margin obligations contained in the rules of that market.

Rule 7.2.9(2) provides that where the rules of a market do not contain any margin obligations, the Trading Participant must comply with the margin obligations set out in Part 7.2, as if the Trading Participant were dealing in Contracts on behalf of Clients on the relevant Market.

Rule 7.2.9(3) provides for the keeping, by a Trading Participant, of a Margin Action Book and Margin Default Register for the relevant Market and requires a participant to ensure it has procedures in place to determine Initial Margin and Variation Margin Calls are being made as soon as possible after the execution of a Client's instructions on a Market.

Rule 7.2.9(4) sets out the matters required (without limitation) to be included in a Margin Action Book as being the Client name, amount of Call, time of contact, Client response and the date funds were received.

Rule 7.2.9(5) sets out the matters required (without limitation) to be included in a Margin Default Register as being Client name; amount of the Call, time and date of the initial Call and any subsequent Calls; details of escalation and other relevant steps taken by the Trading

Participant; details of whether the Trading Participant closed out the Client's positions and, if not, the reasons why the Trading Participant has not done so, having regard to Rule 7.2.8(3); and the date and amount of funds received or details of action taken by the Client.

Rule 7.2.9 substantially reflects Pre-Commencement Market Integrity Rule 7.2.9 (ASX 24, FEX).

Rule 7.2.10 Credit lines

Paragraph 7.2.10(a) provides that a Trading Participant must not accept credit lines for payment of margins unless: the Trading Participant is an Australian ADI, the monies are lent by a separate credit division of the Australian ADI, such monies are lent in accordance with normal credit policy of the Australian ADI, the facility is used to pay obligations for Initial and Variation margins and that such obligations are met by actual payment into the Clients' segregated account of the Trading Participant through a direct Call on the facility.

Rule 7.2.10(10)(b) sets out another circumstance where a Trading Participant can accept credit lines for payment of margins: where the credit is provided to Clients of the Trading Participant by a related entity of the Trading Participant to meet Initial and Variation margins and where the related entity's core business activity is the provision of credit to Clients and the related entity is not a subsidiary of the Trading Participant.

Rule 7.2.10 reflects Pre-Commencement Market Integrity Rule 7.2.10 (ASX 24, FEX).

Rule 7.2.11 Notifying ASIC

Rule 7.2.11(1) provides that a Trading Participant must advise ASIC, in writing, as soon as a margin Call has not been met by a Client and the Trading Participant has not closed out the Client's positions.

Rule 7.2.11(2) provides that the notification referred to in Rule 7.2.11(1) must be given as soon as there is any doubt to a reasonable person that the funds will not arrive from the Client, but is subject to the exercise of the Participant's reasonable discretion not to close out under Rule 7.2.8(3).

Rule 7.2.11 reflects Pre-Commencement Market Integrity Rule 7.2.11 (ASX 24, FEX).

Chapter 8 Extreme price movements

Part 8.1A Application

Rule 8.1A.1 Application of Chapter

Subrule 8.1A.1(1) provides that Chapter 8 applies to Market operators.

Subrule 8.1A.1(2) provides, in Chapter 8, "Relevant Products" means Equity Index Futures and ASX SPI 200 Futures.

Rule 8.1A.1 reflects Pre-Commencement Market Integrity Rule 2.1A.1 (Competition).

Part 8.1 Order entry controls for Anomalous Orders

Rule 8.1.1 Requirement to have Anomalous Order Thresholds

Subrule 8.1.1(1) provides that a Market operator must determine an Anomalous Order Threshold for each Relevant Product that is quoted on its Market.

Subrule 8.1.1(2) provides that a Market operator must notify ASIC in writing of the Anomalous Order Threshold for each Relevant Product that is quoted on its Market not less than 21 days before first adopting the Anomalous Order Threshold for the purposes of Rule 8.1.3.

Subrule 8.1.1(3) provides that ASIC may notify a Market operator that an Anomalous Order Threshold the Market operator has notified to ASIC or adopted for the purposes of Rule 8.1.3 is not appropriate to promote market integrity or a fair, orderly or transparent market.

Subrule 8.1.1(4) requires a Market operator to determine a new Anomalous Order Threshold for the Relevant Product if ASIC notifies the Operator that an Anomalous Order Threshold is not appropriate to promote market integrity or a fair, orderly or transparent market, and notify ASIC in writing of the new Anomalous Order Threshold before adopting it for the purposes of Rule 8.1.3.

Subrule 8.1.1(5) provides that a Market operator must, in determining the Anomalous Order Threshold for a Relevant Product, take into account at a minimum the price at which a single Order substantially deviates from prevailing market conditions and historical trading patterns, and the relevant index multiplier for the Equity Index Future or ASX SPI 200 Future.

Rule 8.1.1 reflects Pre-Commencement Market Integrity Rule 2.1.1 (Competition).

Rule 8.1.2 Requirement to make Anomalous Order Thresholds publicly available

Rule 8.1.2 provides that a Market operator must make an Anomalous Order Threshold determined under Rule 8.1.1 publicly available before adopting the Anomalous Order Threshold for the purposes of Rule 8.1.3,

Rule 8.1.2 reflects Pre-Commencement Market Integrity Rule 2.1.2 (Competition).

Rule 8.1.3 Requirement to prevent Anomalous Orders from entering Markets

Rule 8.1.3 provides that a Market operator must have in place adequate controls to prevent Anomalous Orders from entering an Order book of its Market at all times on a Trading Day other than a time during which:

- (a) Orders for Relevant Products are not matched and transactions are not executed on a continuous basis on the Relevant Order Book; or
- (b) an Auction is being conducted on the Relevant Order Book

Rule 8.1.3 reflects Pre-Commencement Market Integrity Rule 2.1.3 (Competition).

Rule 8.1.4 Requirement to have adequate arrangements in relation to Anomalous Order Thresholds

Subrule 8.1.4(1) provides that a Market operator must have in place adequate arrangements for determining, regularly reviewing, monitoring and amending or adjusting the effectiveness of its Anomalous Order Thresholds, to ensure that the controls are adequate to prevent Anomalous Orders from entering its Market.

Paragraph 8.1.4(2)(a) provides that a Market operator must notify ASIC in writing of its arrangements for determining an Anomalous Order Threshold in accordance with Rule 8.1.1 not less than 21 days before first adopting an Anomalous Order Threshold for the purposes of Rule 8.1.3 in accordance with those arrangements. Paragraph provides 8.1.4(2)(b) provides that a Market operator must notify ASIC in writing each time its revises the arrangements for determining Anomalous Order Thresholds in accordance with Rule 8.1.1, not less than two business days before adopting the revised arrangements.

Subrule 8.1.4(3) provides that ASIC may notify a Market operator that its arrangements for determining Anomalous Order Thresholds are not appropriate to promote market integrity or a fair, orderly or transparent Market.

Subrule 8.1.4(4) requires Market operator, as soon as practicable, revise its arrangements for determining an Anomalous Order Threshold, if ASIC notifies the Operator that its arrangements are not appropriate to promote market integrity or a fair, orderly or transparent market, and to notify ASIC in writing of the new arrangements not less than two business days before adopting them for the purposes of paragraph 8.1.4(1)(a).

Subrule 8.1.4(5) provides that Market operator must record the arrangements required by subrule 8.1.4(1) in writing.

Rule 8.1.4 reflects Pre-Commencement Market Integrity Rule 2.1.4 (Competition).

Part 8.2 Extreme Trade Range

Rule 8.2.1 Extreme Trade Range

Subrule 8.2.1(1) provides that for the ASX SPI 200 Future "Extreme Trade Range" means all prices which are greater than 5% away from the Reference Price for the ASX SPI 200 Future.

Subrule 8.2.1(2) provides that for an Equity Index Future "Extreme Trade Range" means all prices which are greater than 5% away from the Reference Price for the Equity Index Future.

Rule 8.2.1 reflects Pre-Commencement Market Integrity Rule 2.2.1 (Competition).

Rule 8.2.2 Obligation on Market operator to determine and notify Reference Price

Subrule 8.2.1(1) requires the Responsible Market Operator to determine a Reference Price for each Relevant Product after each Trading Reset. If there is an Auction in the Relevant Product after a Trading Reset and before the first transaction after a Trading Reset, the Responsible Market Operator must determine the Reference Price for Relevant Product as the price established by the Auction.

If the Responsible Market Operator determines, acting reasonably, that the price established by the Auction is Invalid, or if the Auction does not establish a price, or if there is no Auction in the Relevant Product after the Trading Reset and before the first transaction after a Trading Reset, the Market Operator must determine the Reference Price as the price of the first transaction. If the price of the first Transaction is Invalid, the Reference Price is a price determined by the Responsible Market Operator, acting reasonably, to be not Invalid.

Subrule 8.2.2(2) provides that the Responsible Market Operator must, each time it determines a new Reference Price for a Relevant Product in accordance with subrule 8.2.2(1), immediately use the Reference Price to determine the Extreme Trade Range for the Relevant Product in accordance with Rule 8.2.1, until the next Trading Reset for the Relevant Product. The Responsible Market operator must also notify ASIC and the Market operator of each other Market on which the Relevant Product is quoted, of the Reference Price for the Relevant Product.

Subrule 8.2.2(3) provides that, subject to subrule 8.2.2(4), each Market operator that receives a notification under paragraph 8.2.2(2)(b) of the Reference Price for a Relevant Product, must immediately use that Reference Price to determine the Extreme Trade Range for the Relevant Product in accordance with Rule 8.2.1, until the Market operator next receives a notification from the Responsible Market Operator paragraph 8.2.2(2)(b) in relation to the Relevant Product.

Subrule 2.2.2(4) provides that a Market operator that operates an Order Book other than ASX TradeMatch 24 (in the case of ASX SPI 200 Futures) or the central Order Book of the Responsible Market Operator Equity Index Futures, must determine the Reference Price for each Relevant Product for that Order Book after each Trading Reset on that Order Book as the price of the first transaction after a Trading Reset. If the price of the first Transaction is Invalid, the Reference Price for each Relevant Product for that Order Book is a price determined by the Market operator, acting reasonably, to be not Invalid, until the Market operator receives a notification of the Reference Price for the Relevant Product under paragraph (2)(b). .

Rule 8.2.2 reflects Pre-Commencement Market Integrity Rule 2.2.2 (Competition).

Rule 8.2.2A Requirement to prevent extreme price movements

Rule 8.2.2A provides that a Market operator must have in place adequate controls to prevent a transaction in a Relevant Product executing on an Order book of its Market in the Extreme Trade Range for the Relevant Product, at all times during a Trading Day other than at a time during which Orders are not matched and transactions are not executed on a continuous basis on the Relevant Order Book, or an Auction is being conducted on the Relevant Order Book.

Rule 8.2.2A reflects Pre-Commencement Market Integrity Rule 2.2.2A (Competition).

Rule 8.2.2B Requirement to identify and notify of ETR Event

Rule 8.2.2B(1) requires a Market operator to identify when an ETR Event occurs on an Order Book of its Market, at all times on a Trading Day other than at a time during which orders for financial products are not matched and transactions are not executed on a continuous basis on the Relevant Order Book or an Auction is being conducted on the Relevant Order Book.

Subrule 2.2.2B(2) provides that where a Market operator (other than the Responsible Market Operator) identifies that an ETR Event has occurred on an Order Book of its Market, the Market operator must immediately notify the Responsible Market Operator of the ETR Event.

Subrule 2.2.2B(3) provides that where a technical problem (including a power outage) prevents a Market operator from making a notification referred to in subrule 8.2.2B(2) immediately, the notification must be made to the Responsible Market Operator without delay by another appropriate means.

Rule 8.2.2B reflects Pre-Commencement Market Integrity Rule 2.2.2B (Competition).

Rule 8.2.2C Requirement to impose Trading Pause

Subrule 8.2.2C(1) requires the Responsible Market Operator, when it identifies an ETR Event on an Order Book of its own Market, or receives a notification of an ETR Event from another Market operator, to immediately impose a Trading Pause on the Relevant Product for a period of two minutes. The Responsible Market Operator must also notify ASIC and the Market Operator of each other Market on which the Relevant Product is quoted, that the Trading Pause has been imposed. Under subrule 8.2.2C(4), the Responsible Market operator must also immediately notify ASIC and, the Market operator of each other Market on which the Relevant Product is quoted when it lifts or removes the Trading Pause imposed on the Relevant Product under subrule 8.2.2C.

Subrule 8.2.2C(2) requires a Market operator that receives a notification under paragraph 8.2.2C(1)(d) that a Trading Pause has been imposed on a Relevant Product must immediately place the Relevant Product the subject of the notification into a Trading Pause on its own Market.

Subrule 8.2.2C(5) provides that where a technical problem (including a power outage) prevents the Responsible Market Operator from making a notification of the imposition, lifting or removal of a Trading Pause immediately, the notification must be made to ASIC and

the Market operator of each other Market on which the Relevant Product is quoted, without delay by another appropriate means.

Subrule 8.2.2C(6) requires the Responsible Market Operator to make publicly available information concerning, the fact that a Trading Pause will result from an ETR Event, the length of a Trading Pause resulting from an ETR Event and how the Responsible Market Operator will resume trading in the Relevant Product on its Market after a Trading Pause resulting from an ETR Event .

Rule 8.2.2C reflects Pre-Commencement Market Integrity Rule 2.2.2C (Competition).

Rule 8.2.3 Notification of transactions in Extreme Trade Range

Rule 8.2.3 provides that if a transaction is executed on a Market within the Extreme Trade Range for a Relevant Product, the operator of that Market must notify the price and time of the relevant transaction executed to ASIC and the operators of all other Markets on that Relevant Product is quoted, notify the Market Participants which executed the relevant transaction that it was executed in the Extreme Trade Range, and make the price and time of the relevant transaction publicly available, or, where more than one transaction in the same Relevant Product was executed in the Extreme Trade Range on the Market of the relevant Operator at or around the same time, the range of prices and times at which the transactions were executed, and the total number of such transactions. This must occur as soon as practicable after becoming aware that the Transaction was executed.

Rule 8.2.3 reflects Pre-Commencement Market Integrity Rule 2.2.3 (Competition).

Rule 8.2.4 Market operator arrangements in relation to Extreme Trade Range

Subrule 8.2.4(1) provides that the Responsible Market Operator must have adequate arrangements in place to notify ASIC and other Market operators of the Reference Prices in accordance with subrule 8.2.2(2). The Responsible Market Operator must also notify ASIC and other Market operators of the imposition and lifting or removal of Trading Pauses under paragraph 8.2.2C(1)(d) and subrule 8.2.2C(4).

Subrule 8.2.4(2) provides that a Market operator must have adequate arrangements for identifying when an ETR Event occurs on its Market, in accordance with subrule 8.2.2B(1), for notifying the Responsible Market Operator that an ETR Event has occurred on its Market, in accordance with subrule 8.2.2B(2), unless the Market operator is the Responsible Market Operator, for notifying ASIC, Market operators and the relevant Market Participants when it

becomes aware that a transaction in the Extreme Trade Range was executed on its Market, in accordance with paragraphs 8.2.3(a) and (b), and making publicly available the price and time of a transaction executed in the Extreme Trade Range, and, where applicable, the range of prices and times, and total number, of transactions executed in the Extreme Trade Range at or about the same time, in accordance with paragraph 8.2.3(c).

Rule 8.2.4B reflects Pre-Commencement Market Integrity Rule 2.2.4 (Competition).

Part 8.3 Transparent cancellation policies

Rule 8.3.1 Market operator to have transparent cancellation policies

Subrule 8.3.1(1) provides that a Market operator must have adequate policies and procedures for the cancellation of transactions in Relevant Products entered into on its Market.

Subrule 8.3.1(2) requires a Market operator's policies and procedures for the cancellation of transactions in Relevant Products entered into on its Market to include:

- (a) a policy to cancel all transactions identified by or to the Market operator that are executed on its Market within the Extreme Trade Range; and
- (b) set out the circumstances, if any, in which transactions in Relevant Products other than transactions referred to in paragraph (a) will be cancelled, may be cancelled subject to a discretion; or will not be cancelled;
- (c) provide for the timely cancellation of transactions in Relevant Products; and
- (d) describe how the Market operator will communicate with relevant Market Participants about the cancellation of transactions in Relevant Products.

Subrule 8.3.1(3) provides that a Market operator must comply with the policies and procedures it has in place for the cancellation of transactions in Relevant Products entered into on its Market.

Subrule 8.3.1(4) provides that a Market operator must ensure that the policies and procedures it has in place to comply with subrule 8.3.1(1), and any changes to those policies and procedures, are published to Market Participants of its Market before those policies and procedures, or those changes, take effect.

Rule 8.3.1 reflects Pre-Commencement Market Integrity Rule 2.3.1 (Competition).

Schedule

Form 1 Part 1

Form 1 Part 1 sets out the content of the annual directors' declaration required to be given to ASIC under Rule 2.3.5(1)(a) in relation to internal procedures and controls of a Participant designed to ensure compliance with the clients' segregated account Rule 2.2.6.

Form 1 Part 1 substantially reflects Form 1 Part 1 of the Pre-Commencement Market Integrity Rules (ASX 24, FEX).

Form 1 Part 2

Form 1 Part 2 sets out the content of the annual auditor's report required to be given to ASIC under Rule 2.3.5(1)(b) in relation to an audit of the internal procedures and controls of a Participant designed to ensure compliance with the clients' segregated account Rule 2.2.6.

Form 1 Part 1 substantially reflects Form 1 Part 2 of the Pre-Commencement Market Integrity Rules (ASX 24, FEX).

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

ASIC Market Integrity Rules (Futures Markets) 2017

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

As part of its supervisory responsibilities, ASIC reviewed the 14 market integrity rule books in force in late 2016 and identified the need to consolidate certain market integrity rule books which covered substantively similar existing obligations across like domestic licensed markets in order to:

- (a) minimise the opportunity for regulatory arbitrage by participants;
- (b) assist participants of the similar domestic licenced markets to comply with their regulatory obligations;
- (c) contribute to efficiency in supervision and enforcement of the market integrity rules by ASIC;
- (d) avoid additional regulatory burden and cost for industry participants;
- (e) ensure consistent regulatory settings and a level regulatory playing field between market operators and between market participants which trade in similar products;
- (f) help promote retail investor trust and confidence and market transparency by ensuring investor protection measures are consistent;
- (g) facilitate market development and competition; and
- (h) reduce ASIC's administrative burden when amending market integrity rules in future.

The policy objective for creating a single point of reference for market integrity rules that are common between markets aligns with ASIC's regulatory responsibilities under the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) to:

- (a) maintain, facilitate and improve the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business

- costs, and the efficiency and development of the economy; and
- (b) promote the confident and informed participation of investors and consumers in the financial system.

Accordingly, the rationale for developing the Market Integrity Rules (Futures) was to provide a single point of reference for market operators and participants across all domestic licensed markets for futures.

The consolidation of market integrity rules applicable to market operators and participants across all domestic licensed markets for futures in these Rules is part of a wider project, which also involves consolidation of the market integrity rules applicable to market operators and participants across all licensed domestic markets for securities (see the *ASIC Market Integrity Rules (Securities Markets) 2017*), and consolidation of the market integrity rules setting out the capital requirements for securities and futures market participants (see the *ASIC Market Integrity Rules (Securities Markets-Capital) 2017* and the *ASIC Market Integrity Rules (Futures Markets-Capital) 2017*).

The Market Integrity Rules (Futures) set out the market integrity rules that apply to:

- (a) the activities and conduct of the domestic licensed financial markets in Australia (the **Markets**) operated by:
- (i) Australian Securities Exchange Limited under *Australian Market Licence (Australian Securities Exchange Limited) 2002* (the **ASX 24 Market**);
 - (ii) FEX Global Pty Ltd under *Australian Market Licence (FEX Global Pty Ltd) 2013* (the **FEX Market**);
- (b) the activities or conduct in relation to the Markets; and
- (c) the activities or conduct of persons in relation to financial products traded on the Markets.

Generally, the Rules maintain the substance of the regulatory regime embodied in following market integrity rules applicable prior to the commencement of the Rules (the **Pre-Commencement Market Integrity Rules**):

- (a) *ASIC Market Integrity Rules (ASX 24 Market) 2010 (ASX 24 Rules)*;
- (b) *ASIC Market Integrity Rules (FEX Market) 2013 (FEX Rules)*; and
- (c) *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*.

As part of ASIC's review of the Pre-Commencement Market Integrity rules for consolidation, ASIC identified market integrity rules applicable to futures market operators and participants contained in the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* (Competition Rules). The substance of those rules (applicable to futures market operators and participants) have been incorporated into the Rules, and removed from the consolidated rulebook applicable to domestic licensed markets for securities (see the *ASIC Market Integrity Rules (Securities Markets) 2017*). Attachment A notes where Rules have been modelled on the Competition Rules.

Human rights implications

Article 17 of the International Covenant on Civil and Political Rights

The Instrument may engage the right to privacy and reputation in Article 17 of the International Covenant on Civil and Political Rights ("Article 17"). Article 17 prohibits unlawful or arbitrary interferences with a person's privacy, family, home (which the UN Human Rights Committee has interpreted as including a person's workplace) and correspondence. It also prohibits unlawful attacks on a person's reputation. It provides that persons have the right to the protection of the law against such interference or attacks. The UN Human Rights Committee has not defined 'privacy'. The Commonwealth Attorney-General's Department has provided guidance that privacy should be understood to comprise freedom from unwarranted and unreasonable intrusion into activities that society recognises as falling into the individual sphere of autonomy. To avoid being considered arbitrary, any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances.¹

The Instrument continues a range of obligations first imposed on market participants in the repealed instruments, relating to obligations to notify ASIC about aspects of trading activity by individuals on the regulated Markets, to ASIC to supervise domestic licensed markets as required by the Corporations Act. These obligations may engage the right to privacy and reputation in Article 17.

The notifications required by the Instrument may contain 'personal information' as defined in the *Privacy Act 1988*, being information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the

¹ Australian Government Attorney-General's Department : *Privacy and Reputation*
<http://www.ag.gov.au/Humanrightsandantidiscrimination/Humanrightsandthepublicsector/Humanrightsguidancesheets/Pages/Privacyandreputation.aspx>

information or opinion. This may be the case where the person to whom the record relates (e.g. an employee or representative of the market participant or a client) is an individual.

The Instrument is compatible with the rights recognised in Article 17 of the ICCPR by reason that any interference with a person's privacy or reputation resulting from compliance with the Instrument will be lawful and not arbitrary. In particular:

- (a) the Instrument is made in accordance with ASIC's power to make market integrity rules dealing with the activities or conduct of persons in relation to licensed markets and in relation to financial products traded on licensed markets (see subsection 798G(1) of the Corporations Act), and with the consent of the Minister ;
- (b) the Instrument will assist ASIC to perform its function of supervising financial markets, the operators of which are licensed under subsection 795B(1) of the Act (see section 798F of the Act);
- (c) the Instrument will further the objects of Chapter 7 of the Act, including promoting fair, orderly and transparent markets for financial products (see paragraph 760A(c) of the Act);
- (d) the Instrument will assist ASIC to perform its function of monitoring and promoting market integrity and consumer protection in relation to the Australian financial system (see paragraph 12A(2) of the *Australian Securities and Investments Commission Act 2001* (*The ASIC Act*); and
- (e) information required to be provided under the Instrument will be protected in accordance with ASIC's legislative obligations under s127 of the ASIC Act and, to the extent the information is personal information, under the *Privacy Act 1988*.

If the Instrument were considered to limit the right in Article 17 of the ICCPR, ASIC considers that the Instrument is nevertheless compatible with that right. The right in Article 17 is not absolute. As noted, the right has implied limitations ('unlawful' and 'arbitrary') and may be subject to a permissible limitation where that limitation aims to achieve a legitimate objective, there is a rational connection between the limitation and the objective and the limitation is reasonable, necessary and proportionate.