



# **ASIC Market Integrity Rules (Securities Markets and other ASIC-Made Rules) Amendment Instrument 2022/117**

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I, Calissa Aldridge, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 9 March 2022

Calissa Aldridge



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## Part 1—Preliminary

### 1 Name of legislative instrument

This instrument is the *ASIC Market Integrity Rules (Securities Markets and other ASIC-Made Rules) Amendment Instrument 2022/117*.

### 2 Commencement

This instrument commences as follows:

- (a) Part 1, and the items in the Schedules to this instrument listed below, commence on the day after this instrument is registered on the Federal Register of Legislation:
  - (i) Schedule 1 items 1-5, 11, 12;
  - (ii) Schedule 2 items 1-5;
  - (iii) Schedule 4 items 1-3;
  - (iv) Schedules 5-10.
- (b) the items in the Schedules to this instrument listed below commence 20 business days after this instrument is registered on the Federal Register of Legislation:
  - (i) Schedule 1 items 6, 7, 9, 10, 13;
  - (ii) Schedule 2 items 6, 7, 9, 10;
  - (iii) Schedule 3 items 1-26;
  - (iv) Schedule 4 items 4-5.
- (c) the items in the Schedules to this instrument listed below commence 3 months after this instrument is registered on the Federal Register of Legislation:
  - (i) Schedule 1 items 8 and 14;
  - (ii) Schedule 2 items 8, 11, 12.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

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### **3 Authority**

This instrument is made under sections 798G, 901A, 903A, 908CA, 908CD and 981J of the *Corporations Act 2001*.

### **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### **5 Repeal of amending and repealing instruments**

- (1) The repeal of an instrument by section 4 does not affect any amendment to or repeal of another instrument (however described) made by the instrument.
- (2) Subsection (1) does not limit the effect of section 7 of the *Acts Interpretation Act 1901* as it applies to the repeal of an instrument by section 4 of this instrument.

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# Schedule 1—Amendments to ASIC Market Integrity Rules (Securities Markets) 2017

## *ASIC Market Integrity Rules (Securities Markets) 2017*

### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$20,000”.

### **2 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$100,000”.

### **3 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$1,000,000”.

### **4 The whole of the Rules**

Omit every occurrence of “Note: There is no penalty for this Rule.”.

### **5 After Rule 1.1.5**

Insert:

#### **1.1.5A Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

### **6 After Rule 1.1.7**

Insert:

#### **1.1.8 Application for review by Administrative Appeals Tribunal of certain decisions made under these Rules**

(1) Subject to this Rule, applications may be made to the Tribunal for review of a decision made by ASIC under:

- (a) subrule 1.2.1(1); or
- (b) subrule 1.2.1(3); or
- (c) paragraph 2.6.1(2)(f); or
- (d) paragraph 3.3.1(d); or
- (e) paragraph 3.4.1(2)(c); or
- (f) subrule 3.5.4(1); or
- (g) subrule 3.5.4(2); or

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- (h) paragraph 3.7.3(2)(a); or
  - (i) subrule 4.3.1(2); or
  - (j) subrule 4.3.1(3); or
  - (k) subrule 4.3.2(1); or
  - (l) subrule 4.3.2(2); or
  - (m) paragraph 5.6.6(1)(b); or
  - (n) subrule 5.6.11(1); or
  - (o) subrule 5.6.12(2); or
  - (p) rule 5.9.2; or
  - (q) subrule 7.1.1(1); or
  - (r) paragraph 7.1.1(2)(h); or
  - (s) subrule 7.1.1(3); or
  - (t) paragraph 7.1.1(4)(a); or
  - (u) paragraph 7.1.1(4)(b); or
  - (v) subrule 7.1.1(5); or
  - (w) subrule 8.1.1(3); or
  - (x) subrule 8.1.4(3); or
  - (y) rule 9.5.3.

(2) An application made under subrule (1) may only be made by:

- (a) in relation to paragraphs (a) and (b):
  - (i) the Market Participant that made the application for a waiver of a Rule under Rule 1.2.1;
- (b) in relation to paragraph (c):
  - (i) the Foreign Market Participant in respect of which the decision by ASIC was made;
- (c) in relation to paragraph (d):
  - (i) the Market Participant that requested ASIC's permission under paragraph 3.3.1(d);
- (d) in relation to paragraphs (f) and (g):
  - (i) the Market Participant that made the application for ASIC approval of a foreign bank for the handling of client money under subrule 3.5.4(1);
- (e) in relation to paragraphs (e), (h) to (l):
  - (i) the Market Participant in respect of which the decision by ASIC was made;
- (f) in relation to paragraphs (m) to (p):



- 
- (i) the Trading Participant in respect of which the decision by ASIC was made;
  - (g) in relation to paragraphs (q) to (y):
    - (i) the Market operator in respect of which the decision by ASIC was made.

(3) In this Rule:

*decision* and *Tribunal* have the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

### **1.1.9 Notice of reviewable decision and review rights**

- (1) This Rule applies if ASIC makes a decision to which Rule 1.1.8 applies.
- (2) ASIC must take such steps as are reasonable in the circumstances to give to each person who may make an application for review of the decision under Rule 1.1.8 notice, in writing or otherwise:
  - (a) of the making of the decision; and
  - (b) of the person's right to have the decision reviewed by the Tribunal.
- (3) A failure to comply with this Rule does not affect the validity of the decision.

## **7 Rule 1.2.1**

Repeal the rule, substitute:

### **1.2.1 Waiver of Rules**

- (1) Subject to Rule 1.2.3, ASIC may, by legislative instrument, relieve any person or class of persons from the obligation to comply with a provision of these Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.
- (2) If any conditions on a waiver given under subrule (1) are imposed, all of the conditions must be complied with for the waiver to be effective.
- (3) ASIC may withdraw, by legislative instrument, a waiver given under subrule (1) at any time.
- (4) Any request by a person for a waiver under subrule (1) must be in writing.

Note: Legislative instruments made under this rule are available on the Federal Register of Legislation. The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

## **8 At the end of sub-paragraph 2.1.4(2)(b)(v)**

Add:

Note: Market operators are subject to an equivalent rule (see: Part 9.6).

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**9 Part 2.4 of Chapter 2**

Repeal the Part.

**10 Subrule 3.4.3(2)**

Repeal the subrule, substitute:

(2) A Market Participant does not have to give the notifications in paragraph (1)(b) to a client if:

- (a) the client has agreed not to receive such notifications; or
- (b) the Market transaction is in respect of a financial product which is a Derivatives Market Contract.

**11 Rule 6.2.1 (Note 1)**

Repeal the note.

**12 Rule 6.2.1 (Note 2)**

Omit “Note 2”, substitute “Note”.

**13 Rule 7.4.4 (table item 4)**

Omit “submits”, substitute “is permitted to submit”.

**14 At the end of Chapter 9**

Add:

**Part 9.6 Supervision and risk management**

**9.6.1 Persons involved in the business—Good fame and character requirement**

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

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

- (a) a person will not be of good fame and character if he or she is disqualified from managing a corporation under the Corporations Act or under the law of another country, or is an insolvent under administration or its equivalent in another country; and

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- (b) a person may not be of good fame and character or high business integrity if the person has been:
- (i) convicted of any offence;
  - (ii) disciplined by or adversely mentioned in a report made by, or at the request of, any government or governmental authority or agency;
  - (iii) adversely mentioned in a report made by, or at the request of, a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility; or
  - (iv) disciplined by a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility.

Note: Market Participants are subject to an equivalent rule (see: Part 2.1).

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## **Schedule 2— Amendments to ASIC Market Integrity Rules (Futures Markets) 2017**

### ***ASIC Market Integrity Rules (Futures Markets) 2017***

#### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$20,000”.

#### **2 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$100,000”.

#### **3 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$1,000,000”.

#### **4 The whole of the Rules**

Omit every occurrence of “Note: There is no penalty for this Rule.”.

#### **5 After Rule 1.1.5**

Insert:

##### **1.1.5A Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

#### **6 After Rule 1.1.7**

Insert:

##### **1.1.8 Application for review by Administrative Appeals Tribunal of certain decisions made under these Rules**

(1) Subject to this Rule, applications may be made to the Tribunal for review of a decision made by ASIC under:

- (a) subrule 1.2.1(1); or
- (b) subrule 1.2.1(3); or
- (c) paragraph 2.2.1(2)(b); or
- (d) paragraph 2.4.1(2)(f); or
- (e) subrule 4.1.1(1); or
- (f) subparagraph 4.1.1(1)(g)(vi); or

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- (g) subrule 4.1.1(2); or
  - (h) rule 4.3.3; or
  - (i) subrule 8.1.1(3); or
  - (j) subrule 8.1.4(3).
- (2) An application made under subrule (1) may only be made by:
- (a) in relation to paragraphs (a) and (b);
    - (i) the Market Participant that made the application for a waiver of a Rule under Rule 1.2.1;
  - (b) in relation to paragraphs (c) and (d);
    - (i) the Market Participant in respect of which the decision by ASIC was made;
  - (c) in relation to paragraphs (e) to (j);
    - (i) the Market operator in respect of which the decision by ASIC was made.

(3) In this Rule:

*decision* and *Tribunal* have the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

### **1.1.9 Notice of reviewable decision and review rights**

- (1) This Rule applies if ASIC makes a decision to which Rule 1.1.8 applies.
- (2) ASIC must take such steps as are reasonable in the circumstances to give to each person who may make an application for review of the decision under Rule 1.1.8 notice, in writing or otherwise:
  - (a) of the making of the decision; and
  - (b) of the person's right to have the decision reviewed by the Tribunal.
- (3) A failure to comply with this Rule does not affect the validity of the decision.

## **7 Rule 1.2.1**

Repeal the rule, substitute:

### **1.2.1 Waiver of Rules**

- (1) Subject to Rule 1.2.3, ASIC may, by legislative instrument, relieve any person or class of persons from the obligation to comply with a provision of these Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.
- (2) If any conditions on a waiver given under subrule (1) are imposed, all of the conditions must be complied with for the waiver to be effective.

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(3) ASIC may withdraw, by legislative instrument, a waiver given under subrule (1) at any time.

(4) Any request by a person for a waiver under subrule (1) must be in writing.

Note: Legislative instruments made under this rule are available on the Federal Register of Legislation. The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

## **8 Rule 2.2.3**

Repeal the rule, substitute:

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

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

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

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

Note: Market operators are subject to an equivalent rule (see: Part 4.4).

## **9 Rule 3.4.4**

Repeal the rule, substitute:

### **3.4.4 Client authorisation**

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

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

**10 After subrule 3.5.3(1)**

Insert:

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

**11 After Part 3.5 of Chapter 3**

Insert:

**Part 3.6 Suspicious activity reporting**

**3.6.1 Notification requirement**

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

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

whether or not the Market Participant is aware of:

- (v) the intention of any party to the transaction or order; or
- (vi) all of the details of the transaction or order,

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

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

### **3.6.2 Confidentiality**

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

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

## **12 After Part 4.3 of Chapter 4**

Insert:

### **Part 4.4 Supervision and risk management**

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

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

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

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



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- (iv) adversely mentioned in a report made by, or at the request of, a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility; or
  - (v) disciplined by a Market operator, a Clearing Facility, a Settlement Facility or any other exchange, market operator or clearing and settlement facility.

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

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## Schedule 3— Amendments to ASIC Market Integrity Rules (Capital) 2021

### *ASIC Market Integrity Rules (Capital) 2021*

#### 1 After Rule 1.1.7

Insert:

#### **1.1.8 Application for review by Administrative Appeals Tribunal of certain decisions made under these Rules**

(1) Subject to this Rule, applications may be made to the Tribunal for review of a decision made by ASIC under:

- (a) subrule 1.2.1(1); or
- (b) subrule 1.2.1(3); or
- (c) rule 1.4.3 (paragraph (c)(ii) of definition of *Approved Subordinated Loan Deed*); or
- (d) paragraph 8.2.1(3)(a); or
- (e) paragraph 8.2.1(3)(b); or
- (f) paragraph 9.2.4(1)(a); or
- (g) rule 9.4.2; or
- (h) rule S1A.2.3A; or
- (i) paragraph S1A.2.4(1)(a); or
- (j) paragraph S1A.2.4(1)(b); or
- (k) subrule S1A.2.4(4) ; or
- (l) subrule S1A.2.4(6); or
- (m) subparagraph S1A.2.4A(2B)(a); or
- (n) rule S1A.2.5(1); or
- (o) subrule S1A.2.7(3); or
- (p) rule S1A.2.9; or
- (q) rule S1A.2.9B; or
- (r) rule S1A.2.9C; or
- (s) table A5.2.2.

(2) An application made under subrule (1) may only be made by:

- (a) in relation to paragraphs (a) and (b);
  - (i) the Market Participant that made the application for a waiver of a Rule under Rule 1.2.1;
- (b) in relation to paragraphs (c) to (s);

- 
- (i) the Market Participant in respect of which the decision by ASIC was made.

(3) In this Rule:

*decision* and *Tribunal* have the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

### **1.1.9 Notice of reviewable decision and review rights**

- (1) This Rule applies if ASIC makes a decision to which Rule 1.1.8 applies.
- (2) ASIC must take such steps as are reasonable in the circumstances to give to each person who may make an application for review of the decision under Rule 1.1.8 notice, in writing or otherwise:
- (a) of the making of the decision; and
  - (b) of the person's right to have the decision reviewed by the Tribunal.
- (3) A failure to comply with this Rule does not affect the validity of the decision.

## **2 Rule 1.2.1**

Repeal the rule, substitute:

### **1.2.1 Waiver of Rules**

- (1) Subject to Rule 1.2.3, ASIC may, by legislative instrument, relieve any person or class of persons from the obligation to comply with a provision of these Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.
- (2) If any conditions on a waiver given under subrule (1) are imposed, all of the conditions must be complied with for the waiver to be effective.
- (3) ASIC may withdraw, by legislative instrument, a waiver given under subrule (1) at any time.
- (4) Any request by a person for a waiver under subrule (1) must be in writing.

Note: Legislative instruments made under this rule are available on the Federal Register of Legislation. The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

## **3 Rule 1.4.3 (paragraph (d) of the definition of *Related/Associated Person Balance*)**

Omit "30", substitute "31".

## **4 After paragraph A2.1.2(3)(e)**

Insert "and".

- 
- 5 Table A2.2**  
Omit every occurrence of “equity net position”, substitute “Equity Net Position”.
- 6 Table A2.3**  
Omit every occurrence of “debt net position”, substitute “Debt Net Position”.
- 7 Table A2.4**  
Omit every occurrence of “equity net position”, substitute “Equity Net Position”.
- 8 Table A2.4**  
Omit every occurrence of “debt net position”, substitute “Debt Net Position”.
- 9 Table A3.1**  
Omit “Debt options”.
- 10 Subrule A3.9.1(1)**  
Omit “equity net positions”, substitute “Equity Net Positions”.
- 11 Paragraph A3.9.1(2)(a)**  
Omit “net positions”, substitute “Net Positions”.
- 12 Subrule A3.17.1(1)**  
Omit “debt net position”, substitute “Debt Net Position”.
- 13 Paragraph A3.17.1(2)(a)**  
Omit “net positions”, substitute “Net Positions”.
- 14 Subrule A3.23.2(3)**  
Omit “Foreign Exchange”, substitute “foreign currency”.
- 15 Sub-paragraph A4.1.2(a)(ii)**  
After “Annexure 5”, insert “to Schedule 1A”.
- 16 Sub-paragraph A4.1.2(a)(iii)**  
After “Part A5.1”, insert “, Annexure 5 to Schedule 1A”.
- 17 Table A5.3.1 (table item *Greece*)**  
Omit “The Capital Market Commission”, substitute “The Hellenic Capital Market Commission”.
- 18 Table A5.3.1 (table item *United States*)**  
Omit “Commodity and Futures Trading Commission”, substitute “Commodity Futures Trading Commission”.
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**19 Schedule 1C Form 2**

Omit all the words from and including “I make” to and including “confirm this.”, substitute:

“By submitting this document, I confirm on behalf of the Market Participant that:

1. I am authorised by the Market Participant to submit the information set out in this form and any attachments;
2. I am aware that submitting false or misleading information may be an offence.”

**20 Schedule 1C Form 2**

After “Since the date of the last reporting statement the Market Participant:”, omit “has been in compliance”, substitute “has complied”.

**21 Schedule 1C Form 2**

After “Since the date of the last reporting statement the Market Participant:”, omit “has not been in compliance”, substitute “has not complied”.

**22 Schedule 1C Form 3**

Omit every occurrence of “comment function”, substitute “comment section”.

**23 Schedule 1C Form 3**

After the table “Equity principal concentration”, omit “equity net position”, substitute “Equity Net Position”.

**24 Schedule 1C Form 3**

After the table “Debt principal concentration”, omit “debt net positions”, substitute “Debt Net Positions”.

**25 Schedule 1C Form 3**

After the table “Non-current assets held”, omit “3. Cash at bank, cash on hand and other deposits other than”, substitute “3. Other deposits excluding”.

**26 Schedule 1C Form 3**

Omit

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**Contingent Liabilities**

Underwriting	
Gross Underwriting Commitments	
Gross Sub Underwriting Commitments	
Total	
Reduce underwriting and sub underwriting commitments by sub underwritten amounts and/or amounts received from client placement	
Net underwriting commitments	

Guarantees	
For the purpose of the Rules	
Ordinary course of business	
To settle legal proceedings	
Subtotal (Sum of all values above)	
Related/Associated persons	
Other	
Other Guarantees total	

Insert

“

**Contingent Liabilities**

Underwriting	
Gross Underwriting Commitments	
Gross Sub Underwriting Commitments	
Total	
Reduce underwriting and sub underwriting commitments by sub underwritten amounts and/or amounts received from client placement	
Net underwriting commitments	

Guarantees	
For the purpose of the Rules	
Ordinary course of business	
To settle legal proceedings	
Subtotal (Sum of all values above)	
Related/Associated persons	
Other	
Other Guarantees total	

- | Underwriting and/or Guarantee comment |
|---------------------------------------|
|                                       |

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## Schedule 4— Amendments to ASIC Market Integrity Rules (IMB Market) 2010

### *ASIC Market Integrity Rules (IMB Market) 2010*

#### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$1,000,000”.

#### **2 The whole of the Rules**

Omit every occurrence of “Note: There is no penalty for this Rule.”.

#### **3 After Rule 1.1.5**

Insert:

##### **1.1.5A Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

#### **4 After Rule 1.1.7**

Insert:

##### **1.1.8 Application for review by Administrative Appeals Tribunal of certain decisions made under these Rules**

(1) Subject to this Rule, applications may be made to the Tribunal for review of a decision made by ASIC under:

- (a) subrule 1.2.1(1); or
- (b) subrule 1.2.1(3).

(2) An application made under subrule (1) may only be made by:

- (a) the Market Participant that made the application for a waiver of a Rule under Rule 1.2.1; or
- (b) the person in respect of which the application was made.

(3) In this Rule:

*decision* and *Tribunal* have the same meaning as in the *Administrative Appeals Tribunal Act 1975*.



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### **1.1.9 Notice of reviewable decision and review rights**

- (1) This Rule applies if ASIC makes a decision to which Rule 1.1.8 applies.
- (2) ASIC must take such steps as are reasonable in the circumstances to give to each person who may make an application for review of the decision under Rule 1.1.8 notice, in writing or otherwise:
  - (a) of the making of the decision; and
  - (b) of the person's right to have the decision reviewed by the Tribunal.
- (3) A failure to comply with this Rule does not affect the validity of the decision.

## **5 Rule 1.2.1**

Repeal the rule, substitute:

### **1.2.1 Waiver of Rules**

- (1) Subject to Rule 1.2.3, ASIC may, by legislative instrument, relieve any person or class of persons from the obligation to comply with a provision of these Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.
- (2) If any conditions on a waiver given under subrule (1) are imposed, all of the conditions must be complied with for the waiver to be effective.
- (3) ASIC may withdraw, by legislative instrument, a waiver given under subrule (1) at any time.
- (4) Any request by a person for a waiver under subrule (1) must be in writing.

Note: Legislative instruments made under this rule are available on the Federal Register of Legislation. The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

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## **Schedule 5— Amendments to ASIC Derivative Transaction Rules (Clearing) 2015**

### ***Amendments to ASIC Derivative Transaction Rules (Clearing) 2015***

#### **1 The whole of the Rules**

Omit every occurrence of “Penalty amount: 1,000 penalty units”.

#### **2 Rule 1.1.4**

Repeal the rule, substitute:

##### **1.1.4 Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

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## **Schedule 6— Amendments to ASIC Derivative Transaction Rules (Reporting) 2013**

### ***ASIC Derivative Transaction Rules (Reporting) 2013***

#### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: 1,000 penalty units”.

#### **2 Rule 1.1.4**

Repeal the rule, substitute:

##### **1.1.4 Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

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## **Schedule 7— Amendments to ASIC Derivative Trade Repository Rules 2013**

### ***ASIC Derivative Trade Repository Rules 2013***

#### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: 1,000 penalty units”.

#### **2 Rule 1.1.4**

Repeal the rule, substitute:

##### **1.1.4 Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

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## **Schedule 8— Amendments to ASIC Client Money Reporting Rules 2017**

### ***ASIC Client Money Reporting Rules 2017***

#### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: \$1,000,000”.

#### **2 Rule 1.1.4**

Repeal the rule, substitute:

##### **1.1.4 Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

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## **Schedule 9— Amendments to ASIC Financial Benchmark (Administration) Rules 2018**

### ***ASIC Financial Benchmark (Administration) Rules 2018***

#### **1 The whole of the Rules**

Omit every occurrence of “Maximum penalty: 5,550 penalty units”.

#### **2 Rule 1.1.5**

Repeal the rule, substitute:

##### **1.1.5 Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.

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## **Schedule 10— Amendments to ASIC Financial Benchmark (Compelled) Rules 2018**

### ***ASIC Financial Benchmark (Compelled) Rules 2018***

#### **1 The whole of the Rules**

Omit every occurrence of “Penalty: 5,550 penalty units”.

#### **2 Rule 1.1.5**

Repeal the rule, substitute:

##### **1.1.5 Penalties for a contravention of these Rules**

The maximum pecuniary penalty payable for a contravention of a provision of these Rules is an amount determined by the Court under section 1317G of the Corporations Act.