Explanatory Statement

ASIC Market Integrity Rules (Securities Markets) Determination 2025/342 and ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2025/343

This is the Explanatory Statement for *ASIC Market Integrity Rules (Securities Markets) Determination 2025/342* (the **Determination**) and *ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2025/343* (the **Repeal Instrument**).

The Explanatory Statement is approved by the Australian Securities and Investments Commission (**ASIC**).

Summary

1. Chapter 6 of the *ASIC Market Integrity Rules (Securities Markets) 2017* (the **Rules**) sets out market integrity rules relating to pre-trade transparency of Orders and post-trade transparency of transactions executed on or reported to a Market, including in relation to Equity Market Products. A 'Block Trade' is a key concept in Chapter 6 and has the meaning given by subrule 6.2.1(1).

2. For a transaction to be a Block Trade, among other things, the consideration for the transaction may not be less than consideration thresholds set out in paragraph 6.2.1(1)(c) of the Rules, which differ according to whether the Relevant Product is a Tier 1 Equity Market Product, Tier 2 Equity Market Product, Tier 3 Equity Market Product or a CGS Depository Interest.

3. Under subrule 6.2.1(4) of the Rules, ASIC may determine Tier 1 Equity Market Products and Tier 2 Equity Market Products by instrument in writing.

4. The Determination maintains ASIC's policy of determining the allocation of Equity Market Products to Tier 1 and Tier 2 based on a periodic calculation of 2.5% of each product's average daily value transacted in the preceding six-month period, of at least $1 million for Tier 1 Equity Market Products and $500,000 for Tier 2 Equity Market Products (or other material number of Trading Days if the product was not quoted during the entire period).

5. The Repeal Instrument, together with the Determination, supersede and repeal the determinations in *ASIC Market Integrity Rules (Securities Markets) Determination 2025/140* (**Superseded Determination**).

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Purpose of the instrument

6. The purpose of the Determination is to determine, for the purposes of paragraph 6.2.1(1)(c) of the Rules and with effect from its commencement, the Tier 1 Equity Market Products and the Tier 2 Equity Market Products.

7. The purpose of the Repeal Instrument is to repeal the Superseded Determination, which will be superseded by the Determination upon its commencement.

8. The Determination and the Repeal Instrument maintain the existing policy settings under the Superseded Determination.

Consultation

9. ASIC has not undertaken any consultation on the Determination or the Repeal Instrument because they maintain ASIC's methodology for the block trading framework for Equity Market Products. ASIC has previously consulted extensively in order to develop that methodology.

10. In November 2010, ASIC consulted on its methodology for determining the allocation of Equity Market Products to tiers of $2.5 million, $1 million, $500,000 and $200,000 based on a periodic calculation of 2.5% of average daily value traded: Consultation Paper 145 *Australian equity market structure: Proposals*. There was insufficient support for the upper and lower tiers and ASIC signalled its intent to consult further.

11. In October 2011, ASIC consulted on further refinements and thresholds set at $1 million, $500,000 and $200,000 based on $2.5% of average daily value traded: Consultation Paper 168 *Australian equity market structure: Further proposals*. This framework was adopted and incorporated into the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*.

12. In November 2017, ASIC released Consultation Paper 277 *Proposals to Consolidate the Market Integrity Rules*. ASIC consulted on adopting the definition of block trade and existing methodology for allocating Equity Market Products to tiers used in Rule 4.2.1 of *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* for the proposed *ASIC Market Integrity Rules (Securities Markets) 2017*. All respondents supported the proposal and there was no submission suggesting that the allocation methodology was not fit for purpose or should be amended.

13. ASIC considers the Determination and the Repeal Instrument to be minor and machinery because they are re-made each quarter using a standardised procedure to update the list of equity market products assigned to each tier to reflect recent market conditions, based on trading activity over the previous six calendar months.

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14. ASIC will periodically assess whether the block trading framework remains fit for purpose, having regard to evolving market conditions. The matters ASIC will have regard to include, but are not limited to, trends in block trading in equity markets, the level of trading activity occurring on-market, and the level of market volatility. If ASIC considers it is appropriate to amend the block trading framework to support the fair, orderly and transparent operation of equity markets, then ASIC presently intends to consult on any proposed changes that may be required in the future.

15. A Regulatory Impact Statement is not required for the instruments as they maintain the existing policy settings in force under the Superseded Determination and its predecessors.

Operation of the instrument

ASIC Market Integrity Rules (Securities Markets) Determination 2025/342

16. *Name of legislative instrument*

Section 1 provides that the name of the instrument is the *ASIC Market Integrity Rules (Securities Markets) Determination 2025/342.*

17. *Commencement*

Section 2 of the instrument provides that the instrument commences on the later of:

(a) 8 July 2025; and

(b) 20 business days following the day the instrument is registered on the Federal Register of Legislation.

18. *Authority*

Section 3 of the instrument provides that the instrument is made under subrule 6.2.1(4) of the Rules.

19. *Interpretation*

Section 4(1) of the instrument provides that, unless the contrary intention appears, capitalised terms have the same meaning as in the Rules.

Subsection 4(2) of the instrument provides that 'stock code', in relation to an Equity Market Product, means the unique symbol assigned to the Equity Market Product under Rule 9.2.3 of the Rules.

20. *Tier 1 Equity Market Products and Tier 2 Equity Market Products*

Subsection 5(1) of the instrument provides that each Equity Market Product whose stock code is set out in the table in Schedule 1 to the instrument is a Tier 1 Equity Market Product.

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Subsection 5(2) of the instrument provides that each Equity Market Product whose stock code is set out in the table in Schedule 2 to the instrument is a Tier 2 Equity Market Product.

21. *Schedule 1*

Schedule 1 provides that a specified Equity Market Product (referred to by its stock code) is a Tier 1 Equity Market Product.

22. *Schedule 2*

Schedule 2 provides that a specified Equity Market Product (referred to by its stock code) is a Tier 2 Equity Market Product.

ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2025/343

23. *Name of legislative instrument*

Section 1 of the instrument provides that the name of the instrument is the *ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2025/343.*

24. *Commencement*

Section 2 of the instrument provides that the instrument commences on the day that is the later of:

(a) 8 July 2025; and

(b) the day that is 20 business days following the day the instrument is registered on the Federal Register of Legislation.

25. *Authority*

Section 3 of the instrument provides that the instrument is made under subrule 6.2.1(4) of the Rules.

26. *Schedule*

Section 4 of the instrument provides that each instrument that is specified in Schedule 1 to this instrument is repealed as set out in the applicable items in the Schedule.

27. *Schedule 1—Repeal*

Item 1 of Schedule 1 to the instrument specifies that the whole of the *ASIC Market Integrity Rules (Securities Markets) Determination 2025/140* is repealed.

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Legislative authority

28. ASIC makes the Determination and the Repeal Instrument under subrule 6.2.1(4) of the Rules.

29. Under subrule 6.2.1(4), ASIC may determine Tier 1 Equity Market Products and Tier 2 Equity Market Products in writing.

30. Under subrule 6.2.1(5), an instrument referred to in subrule (4) takes effect from 20 business days following the date the instrument is registered.

31. Under subsection 33(3) of the *Acts Interpretation Act 1901* where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

32. Under subsection 13(1) of the *Legislation Act 2003*, if enabling legislation confers on a person the power to make a legislative instrument or notifiable instrument, then unless the contrary intention appears, the *Acts Interpretation Act 1901* applies to any instrument so made as if it were an Act and as if each provision of the instrument were a section of the Act. Accordingly, the power under subrule 6.2.1(4) of the Rules to determine Tier 1 Equity Market Products and Tier 2 Equity Market Products in writing, includes a power to repeal such a determination.

33. Capitalised terms in this Explanatory Statement refer to defined terms in the Rules.

34. The Determination and the Repeal Instrument are disallowable legislative instruments.

Statement of compatibility with human rights

35. The Explanatory Statement for a disallowable legislative instrument must contain a Statement of Compatibility with Human Rights under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011.* A Statement of Compatibility with Human Rights is in the Attachment.

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Attachment

Statement of Compatibility with Human Rights

This Statement of Compatibility with Human Rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

ASIC Market Integrity Rules (Securities Markets) Determination 2025/342 and ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2025/343

Overview

1. *ASIC Market Integrity Rules (Securities Markets) Determination 2025/342* (the **Determination**) maintains ASIC's policy of determining the allocation of Equity Market Products to tiers based on a periodic calculation of 2.5% of each product's average daily value transacted in the preceding six-month period (or other material number of Trading Days if the product was not quoted during the entire period).

2. *ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2025/343,* together with the Determination, supersede and repeal the determinations in *ASIC Market Integrity Rules (Securities Markets) Determination 2025/140*.

Assessment of human rights implications

3. These legislative instruments do not engage any of the applicable rights or freedoms. They do not raise any human rights issues.

Conclusion

4. The instruments are 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*.

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