

# **Payment Systems and Netting Regulations 2001 2001 No. 224**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2001 No. 224**

Issued by the authority of the Minister for Financial Services and Regulation

*Payment Systems and Netting Act 1998*

Payment Systems and Netting Regulations 2001

Section 18 of file *Payment Systems and Netting Act 1998* (the Act) empowers the Governor General to make regulations, prescribing matters required or permitted by the Act to be prescribed by regulations, or necessary or convenient to be prescribed by regulations for carrying out or giving effect to the Act.

Participants who buy and sell products on financial markets such as the Sydney Futures Exchange, use "netting" to facilitate payment for the products. "Netting" enables the daily payment obligations of each market participant to be calculated and paid out on a net lump sum basis, rather than on a gross, transaction by transaction, basis.

Before the introduction of the Act, it was unclear whether insolvency law would recognise "netting" if a market participant became insolvent. The Act removes this ambiguity and provides that the normal principles of insolvency law will not apply where "netting" takes place on an arrangement that is declared by a regulation to be a "netting market". Where an arrangement is declared by regulations to be a netting market, the rules which are set down in the act will apply if a market participant becomes insolvent.

The purpose of this regulation is to declare an arrangement, being the clearing services provided by SFE Clearing Corporation Pty Limited, for bonds and repurchase agreements and the clearing and settlement services provided by SFE Clearing Corporation Pty Limited, for futures contracts, as a "netting market" for the purposes of the Act. As a consequence, transactions entered into on this netting market will be governed by the provisions of the Act.

The Regulations commence on gazettal.