

## **ASIC MARKET INTEGRITY RULES (NSXA MARKET) 2010**

### **EXPLANATORY STATEMENT**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission (ASIC) makes the *ASIC Market Integrity Rules (NSXA Market) 2010* (the *Market Integrity 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) of the Act is inserted by Schedule 1 of the *Corporations Amendment (Financial Market Supervision) Act 2010* (the *Amending Act*).

On 24 August 2009, the Australian Government announced that it had decided to transfer the responsibility for supervision of 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. On 8 July 2010, the commencement date for Schedule 1 to the Amending Act was fixed by proclamation as 1 August 2010 (the *Commencement Date*).

These Market Integrity Rules apply to the market (the *Market*) operated by National Stock Exchange of Australia Limited (the *Market Operator*) under *Australian Market Licence (Stock Exchange of Newcastle Limited) 2002*.

The main purpose of the Market Integrity Rules is to promote market integrity, protect investors and enable ASIC to perform the functions contemplated by the transfer of real-time supervision of the Market.

The Market Integrity Rules are a subset of the rules applicable to the NSXA Market (the *NSXA Business Rules*). The subset of rules which have become Market Integrity Rules will remain in the NSX rulebook until the Market Operator amends that rulebook. The main guiding principles in adopting some of the NSXA Business Rules as Market Integrity Rules were that:

- (a) existing operational and mechanical style rules, including the core operational functioning of the Market, should be the responsibility of the Market Operator;
- (b) admission of participants should be the responsibility of the Market Operator;

- (c) rules relating to market integrity should be Market Integrity Rules ;
- (d) rules that assist the real-time monitoring of trading and market conduct should be the responsibility of ASIC; and
- (e) rules relating to general participant conduct, including participant conduct with clients, should be the responsibility of ASIC.

To ensure market certainty and minimise impact on participants on the Commencement Date, ASIC has, to the extent possible, maintained the substance of the regulatory regime embodied in the NSXA Business Rules. Amendments were made to the drafting of those rules to reflect the ASIC's supervisory responsibility.

Details of the Market Integrity Rules are contained in the [Attachment](#).

Targeted consultation on the Market Integrity Rules was conducted during the first half of calendar year 2010. The Market Integrity Rules reflect amendments which were made as a result of this consultation.

Subsection 798G(1) of the Act provides that market integrity rules are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

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 Market Integrity Rule is the penalty amount for that Market Integrity Rule.

The Market Integrity Rules will commence on the later of the day they are registered on the Federal Register of Legislative Instruments or the Commencement Date.

## **ATTACHMENT**

### **Chapter 1: Introduction**

#### **Part 1.1 Preliminary**

##### **Rule 1.1.1 Enabling legislation**

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

##### **Rule 1.1.2 Title**

Rule 1.1.2 provides that the title for these Rules is *ASIC Market Integrity Rules (NSXA Market) 2010*.

##### **Rule 1.1.3 Commencement**

Rule 1.1.3 provides that these Rules commence on the later of:

- (a) the day the instrument is registered under the *Legislative Instruments Act 2003*; and
- (b) the commencement of Schedule 1 to the *Corporations Amendment (Financial Market Supervision) Act 2010*.

The commencement of Schedule 1 of the *Corporations Amendment (Financial Market Supervision) Act* has been fixed by proclamation as 1 August 2010.

##### **Rule 1.1.4 Scope of these Rules**

Rule 1.1.4 provides that these Rules apply to:

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

##### **Rule 1.1.5 Entities that must comply with these Rules**

Rule 1.1.5 provides that the following entities must comply with these Rules:

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

as specified in each Rule.

##### **Rule 1.1.6 Conduct by officers, employees or agents**

Rule 1.1.6 provides that in these Rules, conduct engaged in on behalf of a person by officers, employees or other agents of the person is deemed to have been engaged in by the person.

Rule 1.1.6 is a new Rule made to ensure consistency between these Rules and those applying to other domestically licensed financial markets.

### **Rule 1.1.7 State of mind of a person**

Rule 1.1.7 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.

Rule 1.1.7 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

## **Part 1.2 Waiver**

### **Rule 1.2.1 Waiver of Rules**

Subrule 1.2.1(1) provides that ASIC may provide a waiver from all or any of the Rules. Subrule 1.2.1(2) provides that a waiver may be given subject to conditions. Subrule 1.2.1(3) provides that a waiver and an application for a waiver must be in writing.

Rule 1.2.1 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

### **Rule 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 Rule 1.2.2.

Rule 1.2.2 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

### **Rule 1.2.3 Period during which relief applies**

Rule 1.2.3 provides that ASIC may specify that a waiver applies for a specified period.

Rule 1.2.3 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

### **Rule 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 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

## **Part 1.3 Notice, notification and service of documents**

### **Rule 1.3.1 Market Participant to have email system**

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 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

#### **Rule 1.3.2 Methods of giving notice in writing**

Rule 1.3.2 provides for methods by which ASIC may give a notice under the Rules.

Rule 1.3.2 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

### **Part 1.4 Interpretation**

#### **Rule 1.4.1 References to time**

Rule 1.4.1 provides that in the Rules, references to time are to the time in Sydney, Australia.

Rule 1.4.1 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

#### **Rule 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 these Rules or the contrary intention appears, have the same meaning in the Rules.

Rule 1.4.2 is a new Rule made to ensure consistency between these Rules and those applying to other domestic licensed financial markets.

#### **Rule 1.4.3 Definitions**

Rule 1.4.3 provides definitions for terms used in the Rules. Rule 1.4.3 includes new definitions for:

- “Australian Financial Services Licence”;
- "Chinese Wall";
- "Corporations Regulations";
- "Financial Services Licensee";
- "Market";
- "Market Operator";
- "Market Operating Rules"; and
- "Other Regulated Entities".

The other definitions in Rule 1.4.3 reflect definitions in NSXA Business Rule “NSX Listing Rules and Business Rules Definitions”.

## **Chapter 2: The Market Participant**

### **Part 2.1 Market Participant restrictions**

#### **Rule 2.1.1 Director for more than one Market Participant**

Rule 2.1.1 provides that where a director of a Market Participant is a director of another Market Participant, each Market Participant must ensure that:

- a) the Director nominates one of the Market Participants as the primary Market Participant;
- b) the primary Market Participant notifies ASIC of the nomination; and
- c) the Director is not given access to the records of Orders received for the purchase or sale of securities by Market Participants other than the primary Market Participant, without the prior written approval of the ASIC.

Rule 2.1.1 reflects NSXA Business Rule Part A Rule 8.3.

#### **Rule 2.1.2 Market Participant requirements**

Rule 2.1.2 provides that a Market Participant which is a corporation must nominate and continue to have at all times at least two responsible officers and take reasonable steps to ensure that persons associated with the company which are listed in Rule 2.1.2 are of good character and high business integrity. Rule 2.1.2 also provides that a Market Participant which is a corporation must hold an Australian financial services licence.

Rule 2.1.2 reflects NSXA Business Rule Part A Rule 10.

## **Chapter 3: Market Participant business**

### **Part 3.1 Responsible Officers**

#### **Rule 3.1.1 Responsible Officer requirements**

Rule 3.1.1 provides that a Market Participant must ensure that each of its Responsible Officers meets the following criteria:

- (a) resident in Australia;
- (b) of good character;
- (c) capable of carrying out the obligations of a Responsible Officer efficiently, honestly and fairly;
- (d) is a representative of a Market Participant and has executive responsibility for the supervision and control of all or part of the business of the Market Participant in connection with the Market;
- (e) has training, qualifications and experience that are appropriate to the role of a Responsible Officer; and
- (f) undertakes ongoing training, approved by ASIC in writing for the purposes of this Rule, that is relevant to the role of a Responsible Officer.

Rule 3.1.1 reflects NSXA Business Rule Part A Rule 10A.2.

## **Part 3.2 Processes**

### **Rule 3.2.1 Management structures**

Rule 3.2.1 provides that a Market Participant must have adequate management structures in place to ensure that each Responsible Officer has effective supervision and control over the business or the parts of the business that the Responsible Officer is responsible for.

Rule 3.2.1 reflects NSXA Business Rule Part A Rule 10A.4.

## **Part 3.3: Good character**

### **Rule 3.3.1 Good character determination**

Rule 3.3.1 provides that, for the purposes of determining good character in these Rules:

- (a) if a person is prohibited under the Corporations Act from being a director or promoter of, or being in any way concerned in or taking part in the management of a corporation, that should be taken into account; and
- (b) any conviction of the person for any offence at any time (other than a traffic offence) and any adverse mention of the person at any time in a report made by or at the request of any government or governmental authority or agency should be taken into account.

Rule 3.3.1 reflects NSXA Business Rule Part A Rule 11.1.

## **Chapter 4: Regulation of Market Participant activities**

### **Part 4.1 Australian Financial Services Licence**

#### **Rule 4.1.1 Australian Financial Services Licence requirement**

Rule 4.1.1 provides that a Market Participant must hold an Australian Financial Services Licence which entitles the holder to engage in the business of being a Market Participant.

Rule 4.1.1 reflects NSXA Business Rule Part A Rule 15.5.

### **Part 4.2: Common ownership of Market Participants**

#### **Rule 4.2.1 Market Participant association**

Subrule 4.2.1(1) sets out the circumstances in which a Market Participant is associated with another Market Participant for the purposes of these Rules.

Subrule 4.2.1(2) defines “immediate holding company” for the purposes of subrule 4.2.1(1).

Rule 4.2.1 reflects NSXA Business Rule Part A Rule 8.2.

### **Rule 4.2.2 Market Participant association notification**

Rule 4.2.2 provides that each Market Participant must notify ASIC immediately if the Market Participant becomes associated with another Market Participant.

Rule 4.2.2 reflects NSXA Business Rule Part A Rule 16.1(f).

## **Part 4.3 Insurance**

### **Rule 4.3.1 Requirement to have insurance**

Rule 4.3.1 provides that a Market Participant must take out and maintain in full force and effect an insurance policy or policies.

Rule 4.3.1 reflects NSXA Business Rule Part A Rule 21.1.

### **Rule 4.3.2 Certificate of insurance**

Rule 4.3.2 provides that a Market Participant must provide ASIC with evidence of the policy or policies referred to in Rule 4.3.1, as soon as practicable after renewal.

Rule 4.3.2 reflects NSXA Business Rule Part A Rule 21.3.

### **Rule 4.3.3 Claims**

Rule 4.3.3 provides that, in relation to the insurance policy under Rule 4.3.1 a Market Participant must notify the ASIC in writing of the existence of any claim; or the receipt of a notice from any person of any intention to make a claim; and any circumstance which is likely to give rise to a claim.

Rule 4.3.3 reflects NSXA Business Rule Part A Rule 21.4.

## **Part 4.4 Market Participant responsibility**

### **Rule 4.4.1 Ensuring compliance**

Rule 4.4.1 provides that a Market Participant is responsible for the conduct of its representatives under the Rules.

Rule 4.4.1 reflects NSXA Business Rule Part A Rule 23.1.

## **Part 4.5 Disclosure required when acting as Principal**

### **Rule 4.5.1 Record of Substantial Shareholders and Prescribed Persons**

Rule 4.5.1 provides that a Market Participant must keep a written record of all substantial shareholders and prescribed persons so as to be fully aware when the Market Participant is acting as principal.

Rule 4.5.1 reflects NSXA Business Rule Part B Rule 2.1.



### **Rule 4.5.2 Prohibition on brokerage charges**

Rule 4.5.2 provides that, except as otherwise authorised under the Corporations Act and subject to Rules 4.5.3 and 4.5.4, a Market Participant which enters into a transaction of sale or purchase of securities as principal with a person who is not:

- (a) a financial services licensee; or
- (b) an authorised representative of a Market Participant;

must not charge that person brokerage, commission or any other fee for the transaction.

Rule 4.5.2 reflects NSXA Business Rule Part B Rule 2.3.

### **Rule 4.5.3 Transaction on behalf of a person associated with the Market Participant**

Rule 4.5.3 provides that, if the Market Participant acts as principal only because it is dealing or entering into a transaction on behalf of a person associated with it, it may charge brokerage, commission or other fees to that person in respect of that transaction.

Rule 4.5.3 reflects NSXA Business Rule Part B Rule 2.4.

### **Rule 4.5.4 Wholesale Client brokerage commission**

Rule 4.5.4 provides that a Market Participant may charge a wholesale client brokerage, commission or any other fee in respect of a transaction which the Market Participant enters into as Principal, provided that the wholesale client has consented to the Market Participant charging brokerage commission or any other fee in respect of that transaction.

Rule 4.5.4 reflects NSXA Business Rule Part B Rule 2.5.

## **Part 4.6 Allocation**

### **Rule 4.6.1 Allocation policy**

Rule 4.6.1 provides that, if a Client so requests, a Market Participant must advise the client of the Market Participant's policy for allocating securities to buys and sells to fulfil orders placed with it.

Rule 4.6.1 reflects NSXA Business Rule Part B Rule 3.1.

## **Part 4.7 Prohibition of advice to Client**

### **Rule 4.7.1 Client definition**

Rule 4.7.1 defines "Client" to include a shareholder in a Market Participant for the purposes of Part 4.7.

Rule 4.7.1 reflects NSXA Business Rule Part B Rule 4.1.

### **Rule 4.7.2 Prohibition on advice to Client where in possession of certain information**

Rule 4.7.2 provides that, if as a result of its relationship with a client, a Market Participant is in possession of information in relation to a security that is not generally available and which would be likely to materially affect the price of that security if the information was generally available, the Market Participant must not give any advice to any other client of a nature that would damage the interests of either Client.

Rule 4.7.2 reflects NSXA Business Rule Part B Rule 4.2.

### **Rule 4.7.3 Chinese Walls exception**

Rule 4.7.3 provides that a Market Participant is not regarded as having possession of information described in Rule 4.7.2 if the Market Participant has Chinese Walls in place and the person advising the Client is not in possession of that information.

Rule 4.7.3 reflects NSXA Business Rule Part B Rule 4.3.

### **Rule 4.7.4 Advice exceptions**

Rule 4.7.4 provides that advising a client that the Market Participant is precluded from giving the client advice is not, for the purposes of this Part, to be regarded as giving advice.

Rule 4.7.4 reflects NSXA Business Rule Part B Rule 4.4.

## **Part 4.8: Expenses**

### **Rule 4.8.1 Out-of-pocket expenses**

Rule 4.8.1 provides that a Market Participant which charges a client for out-of-pocket expenses incurred in the purchase or sale of securities must expressly bill those charges.

Rule 4.8.1 reflects NSXA Business Rule Part B Rule 7.1.

## **Part 4.9 Beneficial ownership**

### **Rule 4.9.1 Nominee shareholdings**

Rule 4.9.1 provides that a Market Participant must not register securities which are beneficially owned by an unrelated third party, except as permitted by Rule 4.91.

Rule 4.9.1 reflects NSXA Business Rule Part B Rules 8.1, 8.2.

## **Part 4.10 Disclosure of shortfall**

### **Rule 4.10.1 - A Market Participant with an Underwriting shortfall**

Rule 4.10.1 provides that a Market Participant or a director or employee of a Market Participant who will be required to acquire securities as an underwriter or sub-underwriter must not offer such securities to clients unless they first inform the clients of the closing date of the issue or offering of the securities and the reasons for the acquisition or the offer to the client is made more than 90 days from the closing date.

Rule 4.10.1 reflects NSXA Business Rule Part B Rule 9.1.

## **Chapter 5: Discretionary accounts and managed funds**

### **Part 5.1 Authorisation**

#### **Rule 5.1.1 Authorisation required**

Rule 5.1.1 provides that a Market Participant must not manage or operate a discretionary account or managed fund for or on behalf of any client unless the client has given a written, signed authorisation setting out the terms and conditions of operation of the discretionary account or managed fund and including the rates of brokerage which may be incurred.

Rule 5.1.1 reflects NSXA Business Rule Part B Rule 10.1.

#### **Rule 5.1.2 Dealing in Securities of the Market Participant**

Rule 5.1.2 provides that a Market Participant which manages or operates a discretionary account or managed fund on behalf of any client, must not bid or offer on behalf of such client for or in respect of any securities of any Market Participant which is part of the Market Participant.

Rule 5.1.2 reflects NSXA Business Rule Part B Rule 10.2.

### **Part 5.2 Excessive Transactions**

#### **Rule 5.2.1 Excessive transactions on discretionary accounts**

Rule 5.2.1 provides that a Market Participant must not effect an excessive number of transactions on behalf of clients for whom the Market Participant manages or operates a discretionary account or managed fund.

Rule 5.2.1 reflects NSXA Business Rule Part B Rule 11.1.

### **Part 5.3 Discretionary account reports**

#### **Rule 5.3.1 Client discretionary account report**

Subrule 5.3.1(1) provides that, if a client so requests, a Market Participant must prepare and forward a report on the client's discretionary account or managed fund made up to the end of each quarter in each year to the client, on whose behalf it operates the discretionary account or managed fund setting out details prescribed in the Rule.

Subrule 5.3.1(2) provides that a Market Participant must forward a report prepared in accordance with subrule (1) to the client not later than 14 days after the date to which it is made up.

Rule 5.3.1 reflects NSXA Business Rule Part B Rule 12.

## **Part 5.4 Discretionary account register**

### **Rule 5.4.1 Discretionary account register requirement**

Rule 5.4.1 provides that a Market Participant which operates a discretionary account or managed fund for a client must keep a written register including information listed in the rule.

Rule 5.4.1 reflects NSXA Business Rule Part B Rule 13.

## **Part 5.5 Confirmations**

### **Rule 5.5.1 Confirmation requirement**

Rule 5.5.1 provides that, subject to Rule 5.5.3, a Market Participant must, immediately after a sale or purchase is executed for a client, send a confirmation to that client in a form prescribed by the Corporations Act, which can be printed or electronic.

Rule 5.5.1 reflects NSXA Business Rule Part B Rule 16.1.

### **Rule 5.5.2 Confirmation elements**

Rule 5.5.2 provides that, subject to Rule 5.5.3, a confirmation under Rule 5.5.1 must include the matters set out in Rule 5.5.2.

Rule 5.5.2 reflects NSXA Business Rule Part B Rule 16.3.

### **Rule 5.5.3 Single confirmations**

Rule 5.5.3 provides that a Market Participant may provide a single confirmation for a series of purchases or sales that make up one order for a single class of securities by a wholesale client in the circumstances specified in the rule.

Rule 5.5.3 reflects NSXA Business Rule Part B Rule 16.4.

### **Rule 5.5.4 Where a single sale or purchase**

Rule 5.5.4 provides that a Market Participant that executes a sale or purchase for a client pursuant to an order placed through a financial adviser or agent must ensure that the client receives the confirmation provided by the Market Participant under Rule 5.5.1 or 5.5.3.

Rule 5.5.4 reflects NSXA Business Rule Part B Rule 16.5.

## **Chapter 6: Trading principles**

### **Part 6.1 Preference of Orders**

#### **Rule 6.1.1 Precedence for uncompleted Orders**

Rule 6.1.1 provides that a Market Participant must give precedence to the uncompleted orders of clients to buy or sell securities over an order of the Market Participant acting as principal or on the account of a prescribed person.

Rule 6.1.1 reflects NSXA Business Rule Part B Rule 17.1.

#### **Rule 6.1.2 Price differences**

Rule 6.1.2 provides that, for the purposes of Rule 6.1.1, an order which cannot be executed because of price differences is not an uncompleted order.

Rule 6.1.2 reflects NSXA Business Rule Part B Rule 17.2.

#### **Rule 6.1.3 Requirement for consent of a principal or Director**

Rule 6.1.3 provides that no business is to be transacted by a Market Participant on account of a consultant of the Market Participant, an associate, an employee of the Market Participant or any account in which the abovementioned persons have a direct or indirect interest, unless the written consent set out in the Rule is obtained.

Rule 6.1.3 reflects NSXA Business Rule Part B Rule 17.4.

#### **Rule 6.1.4 Definition of employee**

Rule 6.1.4 provides an expanded definition of 'employee' for the purposes of Part 6.1 of the Rules.

Rule 6.1.4 reflects NSXA Business Rule Part B Rule 17.5.

### **Part 6.2 Corners**

#### **Rule 6.2.1 Identification of a corner**

Rule 6.2.1 provides for steps ASIC may take when, in the opinion of ASIC, a person or two or more persons acting in concert have acquired such control of a security that the security cannot be obtained for delivery on existing contracts except at prices or on terms arbitrarily dictated by such persons which are unfair, harsh, or unconscionable.

Rule 6.2.1 reflects NSXA Business Rule Part B Rule 18.1.

#### **Rule 6.2.2 Arbitration**

Rule 6.2.2 provides that, if the parties to a contract referred to in Rule 6.2.1 do not agree on a fair settlement price and set a date for payment, they must submit the differences or matter in dispute to arbitration.

Rule 6.2.2 reflects NSXA Business Rule Part B Rule 18.2.

### **Part 6.3 Takeovers**

#### **Rule 6.3.1 Takeover Announcement**

Subrule 6.3.1(1) provides that a Market Participant must include the information set out in subrule (1) in a takeover announcement in addition to the information required to be given pursuant to Chapter 6 of the Corporations Act:

Subrule 6.3.1(2) provides that a Market Participant must include the information required by paragraph (1)(e) in an announcement of an extension of the period of the offer.

Rule 6.3.1 reflects NSXA Business Rule Part B Rule 93.1.

#### **Rule 6.3.2 Advice on the acceptance of shares**

Rule 6.3.2 requires a Market Participant to include in an announcement under Rule 6.3.1 or in a written advice to the Market Operator certain advice about accepting shares in the Target.

Rule 6.3.2 reflects NSXA Business Rule Part C Rule 93.2.

#### **Rule 6.3.3 Acquisition of shares**

Rule 6.3.3 prohibits a Market Participant from offering to buy or buying shares in a target in the circumstances set out in the Rule.

Rule 6.3.3 reflects NSXA Business Rule Part C Rule 94.1.

#### **Rule 6.3.4 Competing offers**

Rule 6.3.4 provides that where shares of a Target are the subject of an offer pursuant to Chapter 6 of the Corporations Act, a Market Participant that makes an announcement of a second (or subsequent) and competing offer for shares of that Target (whether effectively given pursuant to Chapter 6 of the Corporations Act or not) must not acquire on behalf of the Offeror any shares in that company until the Market is informed of the contents of the second or subsequent offer.

Rule 6.3.4 reflects NSXA Business Rule Part C Rule 94.2.

#### **Rule 6.3.5 Market Participant dealing with seller**

Rule 6.3.5 provides that a Market Participant must not accept, or transact an order to sell shares the subject of the Rule except as provided for in the Rule.

Rule 6.3.5 reflects NSXA Business Rule Part B Rule 19.1.

### **Part 6.4 Trading Obligations of Market Participants**

#### **Rule 6.4.1 Trading Message submitted by means of a Gateway Session**

Rule 6.4.1 provides that, if a trading message is submitted into the trading platform the trading message is taken for all purposes under the Rules to have been submitted by and with the knowledge of the Market Participant.

Rule 6.4.1 reflects NSXA Business Rule Part C Rule 6.2.

#### **Rule 6.4.2 Organisational and technical resources**

Rule 6.4.2 provides that a Market Participant must have and maintain the necessary organisational and technical resources to ensure that:

- (a) trading messages submitted into a trading platform by the Market Participant do not interfere with the efficiency and integrity of the markets provided by the Market Operator or the proper functioning of a trading platform; and
- (b) the Market Participant at all times complies with the Rules.

Rule 6.4.2 reflects NSXA Business Rule Part C Rule 6.5.

**Rule 6.4.3 Market Participants must be able to determine the origin of all Orders and Trading Messages**

Rule 6.4.3 provides that a Market Participant must have arrangements in place so that the Market Participant can at all times determine the origin of all orders and trading messages. Rule 6.4.3 provides a list of information which the Market Participant must be able to determine.

Rule 6.4.3 reflects NSXA Business Rule Part C Rule 6.6.

**Rule 6.4.4 Appropriate security procedures**

Rule 6.4.4 provides that a Market Participant must maintain and enforce at all times appropriate security procedures which are designed to prevent unauthorised persons from having access to a gateway session or a trader workstation of the Market Participant.

Rule 6.4.4 reflects NSXA Business Rule Part C Rule 6.7.

**Part 6.5 Orderly market**

**Rule 6.5.1 Market Participant requirements for an orderly market**

Rule 6.5.1 provides that a Market Participant must ensure the conduct of an orderly market by, amongst other things taking the steps set out in the Rule, and not intentionally taking advantage of a breakdown, malfunction or error by the Market Operator.

Rule 6.5.1 reflects NSXA Business Rule Part C Rule 7.1.

**Part 6.6 Prevention of manipulative trading**

**Rule 6.6.1 Creating a false or misleading appearance**

Rule 6.6.1 provides that a Market Participant must not make a bid or offer for, or deal in, securities:

- (a) as principal with the intention of creating a false or misleading appearance of active trading, or if that bid, offer or dealing has the effect, or is likely to have the effect, of creating a false or misleading appearance of active trading in any securities or with respect to the Market for, or the price of, any securities; or
- (b) on account of any other person where the Market Participant intends to create a false or misleading appearance of active trading, the Market Participant is aware that the person intends to create a false or misleading appearance of active trading, or taking into account the circumstances of the Order, a Market Participant ought reasonably suspect that the person has placed the Order with the intention of creating, a false or misleading

appearance of active trading in any Securities or with respect to the Market for, or the price of, any Securities.

Rule 6.6.1 NSXA Business Rule Part C Rule 8.1.

### **Rule 6.6.2 Circumstances of the Order**

Rule 6.6.2 provides a list of matters which a Market Participant must have regard to in considering the circumstances of the order for the purposes of Rule 6.6.1.

Rule 6.6.2 reflects NSXA Business Rule Part C Rule 8.2.

### **Rule 6.6.3 Change of beneficial ownership**

Rule 6.6.3 provides that a Market Participant must not enter into a transaction on behalf of a client or as principal the execution of which, would involve no change of beneficial ownership, unless the Market Participant can demonstrate the matters set out in Rule 6.6.3 (c) and (d).

Rule 6.6.3 reflects NSXA Business Rule Part C rule 8.3.

## **Part 6.7 Records and identification of Order source**

### **Rule 6.7.1 Record keeping**

Rule 6.7.1 requires a Market Participant to maintain records of the matters referred to in Rule 6.4.3 and the name and contact details of persons in relation to whom unique identifiers are allocated under the Market Operating Rules.

Rule 6.7.1 reflects NSXA Business Rule Part C Rule 11.1.

### **Rule 6.7.2 Transaction origin identifier**

Rule 6.7.2 provides that a Market participant must record details of the unique identifier allocated pursuant to the Market Operating Rules for each trading message, to enable the identification of the originator of a trading message.

Rule 6.7.2 reflects NSXA Business Rule Part C Rule 11.2.

## **Part 6.8 Designated Trading Representatives**

### **Rule 6.8.1 Australian Financial Services Licence requirement**

Rule 6.8.1 provides that a Market Participant must ensure that each of its designated trading representatives:

- (a) either holds an Australian Financial Services Licence which allows the person to deal in securities or is a representative or representative of the Market Participant authorised to deal in securities under the Australian financial services licence of the Market Participant; and
- (b) has demonstrated knowledge of the dealing rules and relevant practices and procedures of the Market Operator.



Rule 6.8.1 reflects NSXA Business Rule Part C Rule 13.3.

**Rule 6.8.2 Personal account trading prohibition**

Rule 6.8.2 provides that a Market Participant must ensure its designated trading representatives do not execute any order on the trading platform for or on account of that person, or other related entities without the prior written approval of the Market Participant.

Rule 6.8.2 reflects NSXA Business Rule Part C Rule 13.12.

**Part 6.9 Securities of listed entities for which Official Quotation sought**

**Rule 6.9.1 Dealing restriction**

Rule 6.9.1 provides prohibits a Market Participant from making quotations or dealing in a new issue or placement of specified securities if the quotation or dealing is made for the purpose of qualifying a company for admission to the official list of the Market Operator or for which official quotation will be sought, until the securities have been granted official quotation.

Rule 6.9.1 reflects NSXA Business Rule Part C Rule 21.1.

**Rule 6.9.2 Exceptions**

Rule 6.9.2 provides exceptions to rule 6.9.1.

Rule 6.9.2 reflects NSXA Business Rule Part C Rule 21.2.

**Part 6.10 Dealings in Securities for which Official Quotation is not sought**

**Rule 6.10.1 Dealing restriction**

Rule 6.10.1 provides that a Market Participant must not deal in new securities for which official quotation will not be sought until 24 hours after the entity has advised the Market Operator of the details of the issue.

Rule 6.10.1 reflects NSXA Business Rule Part C Rule 22.1.

**Part 6.11 Dealings in Securities suspended from Official Quotation**

**Rule 6.11.1 Dealing restriction**

Rule 6.11.1 provides that a Market Participant must not deal in securities which have been suspended from official quotation unless prior approval has been given by the Market Operator.

Rule 6.11.1 reflects NSXA Business Rule Part C Rule 23.1.

## **Chapter 7: Financial requirements and record keeping**

### **Part 7.1 Trust account**

#### **Rule 7.1.1 Trust account requirement**

Rule 7.1.1 provides that a Market Participant must maintain at least one trust account with an Australian ADI in accordance with the Corporations Act.

Rule 7.1.1 reflects NSXA Business Rule Part E Rule 3.1.

#### **Rule 7.1.2 Funds which must be deposited**

Rule 7.1.2 provides that all funds must be deposited and withdrawn from the trust account in accordance with the Corporations Act.

Rule 7.1.2 reflects NSXA Business Rule Part E Rule 3.2.

#### **Rule 7.1.3 Overnight account requirement**

Rule 7.1.3 provides that all amounts which are required by Rule 7.1.2 to be paid to a Market Participant's trust account but which are received by the Market Participant after Australian ADI trading hours must be paid into the trust account on the first Australian ADI business day following the date of receipt.

Rule 7.1.3 reflects NSXA Business Rule Part E Rule 3.3.

## **Chapter 8: Miscellaneous rules**

### **Part 8.1 Legal proceedings**

#### **Rule 8.1.1 Market Participant to give written particulars**

Rule 8.1.1 provides that a Market Participant must give ASIC written particulars of the types of proceedings set out in the Rule.

Rule 8.1.1 reflects NSXA Business Rule Part F Rule 5.1.