Australian Securities and Investments Commission

*Corporations Act 2001* — Subsection 798G(1) — Variation

1. Enabling legislation

1. I, Greg Yanco, with the written consent of the Minister, make the following instrument under subsection 798G(1) of the *Corporations Act ­2001*.
2. Dated this 20th day of November 2012
3. Signed by Greg Yanco
4. as a delegate of the Australian Securities and Investments Commission.

2. Title

1. This instrument is *ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2012 (No. 3)*.

3. Commencement

1. Each provision of this instrument specified in column 1 of the table commences in accordance with column 2 of the table.

Commencement information

| Items of Schedule 1 | Commencement |
| --- | --- |
| All Items other than Items [33] to [36] | The day that is 18 months after the day on which this instrument is registered under the *Legislative Instruments Act 2003*. |
| Items [33] to [36] | The day after the day on which this instrument is registered under the *Legislative Instruments Act 2003*. |

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (FRLI) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of register). The FRLI may be accessed at <http://www.frli.gov.au/>.

4. Amendments

1. Schedule 1 amends the *ASIC Market Integrity Rules (Chi-X Australia Market) 2011*.

Schedule 1 Amendments

[1] Rule 1.4.3, after the definition of “AFSL”

1. *insert*
2. “**AOP Annual Notification**” has the meaning given by subrule 5.6.8B(1).
3. “**AOP Annual Review**” has the meaning given by Rule 5.6.8A.
4. “**AOP Annual Review Date**” means 1 November each calendar year.
5. “**AOP Initial Certification**” has the meaning given by Rule 5.6.6.
6. “**AOP Material Change Review**” has the meaning given by subrule 5.6.8(1).

[2] Rule 5.6.3

1. *before “A Market Participant”, insert*
2. (1)

[3] Rule 5.6.3(b)

1. *after “;”, omit*
2. and

[4] Rule 5.6.3(c)

1. *omit*
2. markets provided by the Market Participant
3. *insert*
4. the Chi-X Market

[5] Rule 5.6.3(c)

1. *omit*
2. .
3. *substitute*
4. ;

[6] Rule 5.6.3, after paragraph (c)

1. *insert*
2. controls, including automated controls, that enable immediate suspension, limitation or prohibition of the conduct of all Automated Order Processing or Automated Order Processing in respect of:
   * 1. one or more Authorised Persons or clients;
     2. Automated Client Order Processing; or
     3. one or more Equity Market Products; and
3. controls that enable immediate:
   * 1. suspension of, limitation of, or prohibition on, the entry into the Market of Trading Messages in a series of related Trading Messages where the Market Participant has identified that Trading Messages in the series have entered the Chi-X Market and have interfered with or are likely to interfere with the efficiency or integrity of the Chi-X Market; and
     2. cancellation of Trading Messages in a series that have already entered the Chi-X Market where the entry of further messages in the series has been suspended, limited or prohibited under subparagraph (i).

[7] Rule 5.6.3

1. *add, before “Maximum penalty: $1,000,000”*
2. (2) A Market Participant that uses its system for Automated Order Processing must have direct control over all automated filters and the filter parameters for those filters.

[8] Rule 5.6.4

1. *omit*
2. Subject to Rule 5.6.6A, before
3. *substitute*
4. (1) Before

[9] Rule 5.6.4

1. *after “these Rules.”, insert*
2. (2) A Market Participant that was not required to comply with Rule 5.6.4 in relation to a system for Automated Order Processing because of the operation of Rule 5.6.6A is not required to conduct the review referred to in subrule (1) in relation to that system for Automated Order Processing.

Note: Rule 5.6.6A was omitted by the *ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2012 (No. 3)* from the day that was 18 months after the day on which that instrument was registered under the *Legislative Instruments Act 2003*. Rule 5.6.6A stated that Market Participants who complied with ASX Market Integrity Rule 5.6.4 did not need to comply with this Rule 5.6.4.

[10] Subrule 5.6.5(1)

1. *omit*
2. Subject to Rule 5.6.6A, before
3. *substitute*
4. Before

[11] Subrule 5.6.5(1)

1. *omit*
2. their Automated Order Processing system meets the requirements of each of paragraphs 5.6.3(a), (b) and (c)
3. *substitute*
4. the Market Participant has in place organisational and technical resources, arrangements and controls in relation to the system for Automated Order Processing that meet the requirements of Rule 5.6.3

[12] Subrule 5.6.5(2)

1. *after “subrule (1)”, insert*
2. must

[13] Paragraph 5.6.5(2)(a)

1. *omit*
2. must

[14] Paragraph 5.6.5(2)(a)

1. *after “the” (first occurring), insert*
2. organisational and technical resources, arrangements and

[15] Rule 5.6.5, after subrule 5.6.5(2)

1. *insert*
2. (3) A Market Participant that was not required to comply with Rule 5.6.5 in relation to a system for Automated Order Processing because of the operation of Rule 5.6.6A is not required to obtain the representations referred to in subrule (1) in relation to that system for Automated Order Processing.

Note: Rule 5.6.6A was omitted by the *ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2012 (No. 3)* from the day that was 18 months after the day on which that instrument was registered under the *Legislative Instruments Act 2003*. Rule 5.6.6A stated that Market Participants who complied with ASX Market Integrity Rule 5.6.5 did not need to comply with this Rule 5.6.5.

[16] Subrule 5.6.6(1)

1. *omit*
2. Subject to Rule 5.6.6A, before
3. *substitute*
4. Before

[17] Paragraph 5.6.6(1)(a)

1. *after “certification”, insert*
2. (“**AOP Initial Certification**”).

[18] Paragraph 5.6.6(1)(b)

1. *omit*
2. certification
3. *substitute*
4. AOP Initial Certification

[19] Subrule 5.6.6(2)

1. *omit*
2. written certification
3. *substitute*
4. AOP Initial Certification

[20] Subparagraph 5.6.6(2)(d)(iii)

1. *after “the” (third occurring), insert*
2. organisational and technical resources, arrangements and

[21] Rule 5.6.6, after subrule 5.6.6(3)

1. *insert*
2. (4) A Market Participant that was not required to comply with Rule 5.6.6 in relation to a system for Automated Order Processing because of the operation of Rule 5.6.6A is not required to give the certification referred to in subrule (1) in relation to that system for Automated Order Processing.

Note: Rule 5.6.6A was omitted by the *ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2012 (No. 3)* from the day that was 18 months after the day on which that instrument was registered under the *Legislative Instruments Act 2003.* Rule 5.6.6A stated that Market Participants who complied with ASX Market Integrity Rule 5.6.6 did not need to comply with this Rule 5.6.6.

[22] Rule 5.6.6A

*omit the rule*

[23] Rule 5.6.7

*omit the rule*

[24] Rule 5.6.8 (heading)

1. *omit*
2. Material change review
3. *substitute*

AOP Material Change Review

[25] Rule 5.6.8

*before “Before”, insert*

1. (1)

[26] Rule 5.6.8

*after “resources”, insert*

, arrangements or controls

[27] Rule 5.6.8

*omit*

1. , for the purposes of providing the confirmation referred to in Rule 5.6.9 or the further certification referred to in Rule 5.6.10,

[28] Rule 5.6.8

*after “review”, insert*

(“**AOP Material Change Review**”)

[29] Rule 5.6.8

*after “these Rules.”, insert*

1. (2) Before implementing a material change the subject of an AOP Material Change Review the Market Participant must, for the purposes of providing the AOP Annual Notification, obtain written representations from the person who performed the AOP Material Change Review that nothing came to the attention of the person during the course of the AOP Material Change Review that would indicate that the Market Participant is unable to comply with Part 5.6 of these Rules.
2. (3) The representations referred to in subrule (2) must:
3. include the name of the person making the representation; and
4. be signed and dated by the person making the representation.

[30] After Rule 5.6.8

1. *insert*

5.6.8A AOP Annual Review

1. (1) Where a Market Participant has not performed an AOP Material Change Review in relation to an Automated Order Processing system in the 12 months before the AOP Annual Review Date, the Market Participant must, for the purposes of providing the AOP Annual Notification in relation to that Automated Order Processing system, ensure that an appropriately qualified person performs a review (“**AOP Annual Review**”) of the Automated Order Processing system, the Market Participant’s policies, procedures, system design documentation, including the Market Participant’s procedures for implementation of changes to the Automated Order Processing software, filters and filter parameters and other relevant documentation concerning the Market Participant’s compliance with Part 5.6 of these Rules.
2. (2) The Market Participant must, for the purposes of providing the AOP Annual Notification in relation to an Automated Order Processing system, obtain written representations from the person who performed the AOP Annual Review in relation to the Automated Order Processing system, that nothing came to the attention of the person during the course of the AOP Annual Review that would indicate that the Market Participant is unable to comply with Part 5.6 of these Rules.
3. (3) The representations referred to in subrule (2) must:
4. include the name of the person making the representation; and
5. be signed and dated by the person making the representation.

Maximum penalty: $100,000

5.6.8B AOP Annual Notification

1. (1) A Market Participant must, within 10 Business Days of each AOP Annual Review Date, given a written notice (“**AOP Annual Notification**”) to ASIC that includes:
2. the name of the Market Participant; and
3. the version number and name of the Market Participant’s Automated Order Processing system; and
4. a confirmation by the Market Participant that nothing came to the attention of the Market Participant during the 12 months before the AOP Annual Review date that would indicate that the Market Participant is unable to comply with Part 5.6 of these Rules; and
5. the name of the directors of the Market Participant referred to in subrule (2).
6. (2) At least two directors of the Market Participant must sign and date the AOP Annual Notification.

Maximum penalty: $100,000

[31] Rule 5.6.9

*omit the rule*

[32] Rule 5.6.10

*omit the rule*

[33] Rule 6.4.1

*omit*

Market Bid

*substitute*

1. Takeover Bid

[34] Subparagraph 7.1.1(2)(g)(vi)

*omit*

and

[35] After paragraph 7.1.1(2)(g)

*insert*

(ga) information for the order or trade recorded by the Market Operator in accordance with subrule 5A.2.2(1) of the Competition Market Integrity Rules; and

[36] At the end of Rule 7.1.2

*insert*

Note: There is no penalty for this rule.