

**ASIC MARKET INTEGRITY RULES (COMPETITION IN EXCHANGE MARKETS)
AMENDMENT 2013 (NO. 1)**

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 (Competition in Exchange Markets) Amendment 2013 (No. 1)* (the **Instrument**) under subsection 798G(1) of the *Corporations Act 2001* (the **Corporations Act**). Capitalised terms used in this Explanatory Statement (e.g. “Participant”) are defined in the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* (the **ASIC Market Integrity Rules (Competition)**).

1. Enabling legislation

Subsection 798G(1) of the Act provides that ASIC may, by legislative instrument, make rules that deal with the following:

- (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.

2. Purpose of the legislative instrument

The purpose of the Instrument is to extend the scope of and adapt selected provisions of the ASIC Market Integrity Rules (Competition) to apply to the trading in Commonwealth Government Securities (CGS) Depository Interests on public exchanges, including:

- (a) extreme price movements;
- (b) best execution;
- (c) pre- and post-trade transparency;
- (d) regulatory data for market surveillance;
- (e) market operator obligations in a multi-market environment; and
- (f) market participant obligations.

The amendments are required to implement the initiative of the Australian Government (**Government**) to facilitate retail trading in CGS Depository Interests, which will be similar to trading in Equity Market Products on the Australian Stock Exchange (**ASX**).

The amendments extend the scope of and adapt selected provisions of the ASIC Market Integrity Rules (Competition) to apply to CGS Depository Interests trading on public exchanges. This approach ensures consistency across asset classes and investor confidence.

This Instrument also makes amendments to the composition of certain Trading Information (last traded price, highest price and lowest price) that a market operator must make available on a website within 20 minutes.

Extreme price movements

The Instrument makes amendments to extend Chapter 2 (Extreme price movements) of the ASIC Market Integrity Rules (Competition) to market operators that offer trading in CGS Depository Interests (CGS Market Operators).

The amendments extend the application of certain obligations of market operators to include trading in CGS Depository Interests. These obligations include the requirements to have in place:

- (a) controls to prevent Anomalous Orders from entering its market;
- (b) controls for preventing extreme price movements; and
- (c) transparent policies and procedures for trade cancellations.

The amendments also provide a single Extreme Trade Range of 20% or more away from the reference price for CGS Depository Interests.

Under Chapter 2, the Responsible Market Operator is responsible for determining the reference price for each product and for initiating the imposition and lifting of trading pauses when there is an extreme trade range event. The Responsible Market Operator for CGS Depository Interests will be the CGS Market Operator. Where there is more than one CGS Market, the Responsible Market Operator will be determined in writing by ASIC and notified on its website.

The purpose of these amendments is to minimise the incidence and impact of sudden price distortions from non-fundamental factors and to ensure markets in CGS Depository Interests remain orderly and are able to cope with periods of volatility without major disruptions.

Best execution

The Instrument makes amendments to Chapter 3 (Best execution) of the ASIC Market Integrity Rules (Competition) to include CGS Market Participants.

The best execution obligation now applies to CGS Market Participants. It consists of a number of requirements including the requirement to:

- (a) obtain the best outcome for their clients;
- (b) have adequate policies and procedures for complying with its best execution obligation;
- (c) disclose certain information about its execution arrangements to clients;
- (d) review and monitor the effectiveness of its execution arrangements; and
- (e) provide evidence of best execution performance on request by a client.

The extension of the best execution requirement to CGS Market Participants will promote investor's confidence in the quality of execution that they will receive when they are trading CGS Depository Interests.

Pre-trade and post-trade transparency

The Instrument makes amendments to Chapters 4 (Pre-trade transparency) and 5 (Post-trade transparency) of the ASIC Market Integrity Rules (Competition) to extend the provisions to CGS Depository Interests in a tailored way to reflect the characteristics of debt market products, including:

- (a) requiring CGS Market Operators to make available certain pre-trade information (which will now include information in relation to Orders for CGS Depository Interests) on reasonable commercial terms and on a non-discriminatory basis;
- (b) extending the Block Trade exception to the pre-trade transparency obligation to CGS Depository Interests where the consideration for the transaction is \$200,000 or more;
- (c) requiring CGS Market Participants that operate a crossing systems under an exception to pre-trade transparency to include information in relation to Orders and Transactions in CGS Depository Interests in their monthly reports to ASIC regarding the activity on the crossing system;
- (d) requiring CGS Market Participants that transact off-order book to report the details of the executed transaction to a CGS Market Operator;
- (e) extending the delayed reporting requirement for large principal transactions to CGS Depository Interests where the consideration for the transaction is at least \$2,000,000 (consistent with the threshold for Category D Equity Market Products);
- (f) requiring a CGS Market Operator that receives a post-trade report from a CGS Market Participant to have in place arrangements for determining whether the transaction as reported meets the criteria for the pre-trade transparency exception relied upon by the CGS Market Participant;
- (g) requiring CGS Market Operators to make available post-trade information (which will now include information in relation to Transactions in CGS Depository Interests) about transactions executed under its rules on reasonable commercial terms and on a non-discriminatory basis; and
- (h) requiring CGS Market Operators to make available certain trading information (which will now include information in relation to Transactions in CGS Depository Interests) free of charge on a website that is publicly available and on a delayed basis of no more than 20 minutes.

The amendments made by Schedule 2 to the Instrument also include the threshold for consideration for a Transaction in Equity Market Products or CGS Depository Interests to which the exception applies. The threshold is currently set at \$0.

The purpose of these amendments is to promote investor confidence in CGS Markets and allow market prices to reflect the maximum amount of information about market conditions. This promotes the objectives of:

- (a) ensuring the price discovery process is efficient; and
- (b) balancing the benefits of dark liquidity for larger sized orders with protecting the pre-trade price formation process, and the overall quality of the Australian market.

This Instrument also makes amendments to Rule 5.1.6. This Rule requires a market operator to make

available certain Trading Information on a website within 20 minutes. The amendment requires the last traded price, highest price and lowest price to include trades at or within the spread and trades with price improvement that are reported to the relevant market operator.

The purpose of these amendments is to ensure that the content of the Trading Information that a market operator makes available on a website is consistent with other sources of data in the market.

Regulatory data for market surveillance

The Instrument makes amendments to Chapter 5A (Regulatory data) of the ASIC Market Integrity Rules (Competition) to extend the provisions to CGS Market Operators and CGS Market Participants. Chapter 5A applies to Equity Market Operators and CGS Market Operators from 28 October 2013. It applies to Equity Market Participants and CGS Market Participants from 10 March 2014.

The amendments will require CGS Market Participants to provide additional data on Order messages and/or Trade Reports to CGS Market Operators and require CGS Market Operators to record this information. The data requirement includes:

- (a) the execution venue;
- (b) the capacity in which the Market Participant is acting (agent, principal, or both);
- (c) the origin of the Order or Transaction (e.g. client account identifier);
- (d) the intermediary ID (i.e. AFS licence number); and
- (e) an indicator of directed wholesale Orders or Transactions.

The purpose of these amendments is to ensure that ASIC is able to obtain sufficient and appropriate market data relating to trading in CGS Depository Interests in a timely and efficient manner. This will assist ASIC to monitor and detect market misconduct and preserve the integrity, fairness and orderliness of Australia's CGS markets.

Market operator obligations in a multi-market environment

The Instrument makes amendments to Chapter 6 (Market operator – other obligations) of the ASIC Market Integrity Rules (Competition) to extend the provisions to CGS Market Operators, including:

- (a) requiring CGS Market Operators to act together and share information with each other to coordinate certain market-wide events;
- (b) requiring CGS Market Operators to have procedures for allocating unique participant identifiers for its Participants; and
- (c) requiring the Responsible Market Operator for CGS Depository Interests to assign each CGS Depository Interest a unique symbol for the purpose of identifying that CGS Depository Interest in records of Orders, Transactions and other Trading Messages on its Market and requiring all other CGS Market Operators to use the same symbol;
- (d) requiring CGS Market Operators to synchronise their clocks to the time maintained by the National Measurement Institute (NMI), and have arrangements in place to monitor and maintain synchronisation; and
- (e) prohibiting CGS Market Operators from accepting, displaying or queueing orders in their

order book in tick sizes less than \$0.001.

The purpose of the amendments is to facilitate market operator cooperation and coordination in a multi-market environment for CGS Depository Interests and ensure business continuity and market integrity.

Market participant obligations

The Instrument makes amendments to Chapter 7 (Participant – other obligations) of the ASIC Market Integrity Rules (Competition) to extend the provisions to CGS Market Participants, including:

- (a) requiring that Transactions in CGS Depository Interests be entered into under the Operating Rules of a CGS Market Operator (subject to limited exceptions);
- (b) prohibiting CGS Market Participants from matching an Order or entering a Transaction in a CGS Depository Interest which is in a Trading Suspension; and
- (c) permitting CGS Market Participants, with written authorisation from a client, to provide a single confirmation for an order executed on more than one Market and to specify the volume-weighted average price (VWAP) for all transactions.

The purpose of the amendments is to ensure that investors have certainty about the rules and protections that apply when they are transacting in CGS Depository Interests.

Details of the Instrument are contained in Attachment A.

3. Consultation

ASIC has consulted on its package of amendments to the Instrument through the following steps:

- (a) ASIC Consultation Paper 181 *Retail trading in Commonwealth Government Securities* (CP 181) was released on 20 July 2012. CP 181 proposed amendments to the ASIC Market Integrity Rules (Competition) which we considered necessary to implement the Australian Government's decision to facilitate retail trading of CGS Depository Interests on public exchanges. Draft market integrity rules reflecting these proposals, were attached to CP 181 – *Attachment to CP181: Retail trading in Commonwealth Government Securities*.
- (b) In the lead up to, and during, the consultation we:
 - (i) held a number of meetings with various local stakeholders; and
 - (ii) sought information from overseas regulators and market operators, and
- (c) CP 181 was built on the findings of Consultation Paper 168 *Australian equity market structure: Further proposals*, issued in October 2011, to the extent that they were considered relevant to CGS Depository Interests traded on public exchanges. It also adopted the proposals in Consultation Paper 179 *Australian market structure: Draft market integrity rules and guidance* (CP 179) and tailored them to CGS Depository Interests. In settling our final position, we have also taken into consideration submissions to CP 179 where they affect CGS Depository Interests.

4. Penalties

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

Subsection 798G(2) of the Corporations 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 Competition Rule is the penalty amount for that Competition Rule.

5. Commencement of the Instrument

The Instrument will commence in accordance with paragraph 3 of the Instrument.

6. Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is included in this Explanatory Statement at Attachment B.

7. Regulation Impact Statement

A Regulation Impact Statement has not been prepared in relation to the Instrument. We have complied with the Government's regulatory impact analysis process and submitted a Preliminary Assessment Form to the Office of Best Practice Regulation (OBPR). The OBPR considers that the amendments have a 'minor' impact on business or the not-for-profit sector and no Regulation Impact Statement is required.

ATTACHMENT A

Capitalised terms used in this Attachment (e.g. “Participant”) are defined in the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* (the **ASIC Market Integrity Rules (Competition)**).

Paragraph 1 – Enabling Legislation

This paragraph provides that the Instrument is made, with the written consent of the Minister, under subsection 798G(1) of the *Corporations Act 2001* (the **Corporations Act**).

Paragraph 2 – Title

This paragraph provides that the title of the Instrument is *ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2013 (No. 1)*.

Paragraph 3 – Commencement

This paragraph provides that the Instrument commences on the day after the day on which it is registered under the *Legislative Instruments Act 2003*.

Paragraph 4 – Amendments

This paragraph provides that Schedule 1 amends the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*, and Schedule 2 amends the *ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2012 (No. 1)*.

Schedule 1– Amendments to the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011

Item [1] Rule 1.4.3, definition of “Anomalous Order”

Item [1] extends the existing definition of “Anomalous Order” to apply to CGS Depository Interests, in addition to Equity Market Products and ASX SPI 200 Futures.

Item [2] Rule 1.4.3, definition of “Anomalous Order Threshold”

Item [2] extends the existing definition of “Anomalous Order” to apply to CGS Depository Interests, in addition to Equity Market Products and ASX SPI 200 Futures.

Items [3], [4] and [5] Rule 1.4.3, definition of “Auction”, paragraph (a), (b) and after paragraph (b)

Items [3], [4] and [5] extend the existing definition of “Auction”.

For the purposes of Part 2.2 (Extreme trade range) of the ASIC Market Integrity Rules (Competition) (i.e. for the determination of the Reference Price for the Extreme Trade Range for CGS Depository Interests), an Auction in relation to CGS Depository Interests, means an auction in the CGS Depository Interest on the central Order Book of the Responsible Market Operator (see item [39] below) for CGS Depository Interests.

Item [6] Rule 1.4.3, definition of “Best Available Bid”

Item [6] extends the existing definition of “Best Available Bid” to apply to CGS Depository Interests, in addition to Equity Market Products.

Item [7] Rule 1.4.3, definition of “Best Available Offer”

Item [7] extends the existing definition of “Best Available Offer” to apply to CGS Depository Interests, in addition to Equity Market Products.

Item [8] Rule 1.4.3, after definition of “Category D Equity Market Product”

Item [8] inserts new definitions of “CGS Depository Interest”, “CGS Market”, “CGS Market Operator” and “CGS Market Participant” into Rule 1.4.3. The defined terms “CGS Depository Interest”, “CGS Market” and “CGS Market Operator” facilitate the application of the ASIC Market Integrity Rules (Competition) to CGS Depository Interests.

For the purposes of the ASIC Market Integrity Rules (Competition), a Market Operator (e.g. ASX Limited) may meet the definition of an “Equity Market Operator” and “CGS Market Operator” and the financial market it operates may meet the definition of an “Equity Market” and “CGS Market”. Likewise, an “Equity Market Participant” may also be a “CGS Market Participant”. Market Operators and Market Participants need to comply with their obligations under the ASIC Market Integrity Rules (Competition) as those obligations now apply to them in each role and in relation to each product.

Item [9] Rule 1.4.3, definition of “Disclosed”

Item [9] amends the definition of “Disclosed” to reflect that Chapter 4 (Pre-trade information) of the ASIC Market Integrity Rules (Competition) now applies to CGS Depository Interests, in addition to Equity Market Products. The Pre-Trade Information for CGS Depository Interests is set out in new Rule 4.1.4A (see item [56] below), separately to the Pre-Trade Information for Equity Market Products in Rule 4.1.4.

Item [10] Rule 1.4.3, definition of “Equity Market Product”

Item [10] amends the definition of “Equity Market Product” to exclude a CGS Depository Interest. This amendment clarifies for the avoidance of doubt that Equity Market Products and CGS Depository Interests are different products for the purposes of the ASIC Market Integrity Rules (Competition).

Items [11] and [12] Rule 1.4.3, definition of “ETR Event”

Items [11] and [12] extend the existing definition of “ETR Event” to apply to CGS Depository Interests, in addition to Equity Market Products and (prospectively) ASX SPI 200 Futures.

Items [13], [14] and [15] Rule 1.4.3, definition of “Extreme Trade Range”, paragraph (a), (b) and after paragraph (b)

Items [13], [14] and [15] extend the existing definition of “Extreme Trade Range” to apply to CGS Depository Interests, in addition to ASX SPI 200 and Equity Market Products.

The Extreme Trade Range, in relation to CGS Depository interest has the meaning given by subrule 2.2.1(3) (see item [43] below).

Item [16] Rule 1.4.3, definition of “Hidden”

Item [16] extends the definition of “Hidden” to apply to CGS Depository Interests, in addition to Equity Market Products. The Pre-Trade Information for CGS Depository Interests is set out in new Rule 4.1.4A (see item [56] below), separately to the Pre-Trade Information for Equity Market Products in Rule 4.1.4.

Item [17] Rule 1.4.3, definition of “Invalid”

Item [17] amends the existing definition of “Invalid” to facilitate its application to CGS Depository Interests, in addition to Equity Market Products and ASX SPI 200 Futures.

Item [18] Rule 1.4.3, definition of “Opening Transaction”

Item [18] extends the existing definition of “Opening Transaction” to apply to CGS Depository Interests, in addition to Equity Market Products and ASX SPI 200 Futures.

Item [19] Rule 1.4.3, definition of “Post-Trade Information”

Item [19] omits the existing definition of “Post-Trade Information” and substitutes a new definition which applies to Transactions in CGS Depository Interests as well as Transactions in Equity Market Products. The Post-Trade Information for CGS Depository Interests is set out in new Rule 5.1.7A (see item [93] below), separately to the Post-Trade Information for Equity Market Products in Rule 5.1.7.

Items [20], [21] and [22] Rule 1.4.3, definition of “Post-Trading Hours Period”

Items [20], [21] and [22] amend the definition of “Post-Trading Hours Period” to provide that it applies in relation to an Equity Market Product or a CGS Depository Interest and is determined by reference to the Trading Hours of Markets on which the particular Equity Market Product or CGS Depository Interest is quoted. The amendments complement amendments made to Rule 4.2.4 which sets out the criteria for the Pre-trade transparency exception for a Permitted Trade during the Post-Trading Hours Period.

Item [23] Rule 1.4.3, definition of “Pre-Trade Information”

Item [23] omits and substitutes the definition of “Pre-Trade Information” to apply to CGS Depository Interests, in addition to Equity Market Products. The Pre-Trade Information for CGS Depository Interests is set out in new Rule 4.1.4A (see item [56] below), separately to the Pre-Trade Information for Equity Market Products in Rule 4.1.4.

Item [24] Rule 1.4.3, definition of “Pre-Trade Transparent”, paragraph (b)

Item [24] amends the definition of “Pre-Trade Transparent” to include a reference to the new Rule 4.1.4A (see item [56] below) which sets out the Pre-Trade Information for CGS Depository Interests. Pre-Trade Information for Equity Market Products is set out separately in Rule 4.1.4.

Item [25] Rule 1.4.3, definition of “Pre-Trading Hours Period”

Item [25] omits the definition of “Pre-Trading Hours Period” and substitutes a new definition as follows:

- (a) in the case of an Equity Market Product, the period on a Trading Day from three hours before the start of Trading Hours for ASX TradeMatch to 15 minutes before the start of Trading Hours for ASX TradeMatch; and
- (b) in the case of a CGS Depository Interest, the period on a Trading Day from three hours before the start of Trading Hours for the Market of the Responsible Market Operator for GGS Depository Interests (see item [39] below) to 15 minutes before the start of Trading Hours for that Market.

Item [26] Rule 1.4.3, definition of “Reference Bid”

Item [26] amends the existing definition of “Reference Bid” to apply to CGS Depository Interests, in addition to Equity Market Products.

Item [27] Rule 1.4.3, definition of “Reference Offer”

Item [27] amends the existing definition of “Reference Offer” to apply to CGS Depository Interests, in addition to Equity Market Products.

Items [28], [29] and [30] Rule 1.4.3, definition of “Responsible Market Operator”, paragraph (a), (b) and after paragraph (b)

Items [28], [29] and [30] amend the definition of “Responsible Market Operator” to apply to CGS Depository Interests, in addition to Equity Market Products and ASX SPI 200 Futures. For CGS Depository Interests, the Responsible Market Operator will be the Market Operator determined in accordance with Rule 1.4.4 (see item [39] below).

Item [31] Rule 1.4.3, definition of “Tick Size”, paragraph (a)

Item [31] extends the definition of “Tick Size” to apply to CGS Depository Interests, in addition to Equity Market Products (see items [123], [124] and [125] below).

Item [32] Rule 1.4.3, definition of “Time Priority”

Item [32] amends the definition of “Time Priority” to apply to CGS Depository Interests, in addition to Equity Market Products (see items [58] and [59] below).

Items [33] and [34] Rule 1.4.3, definition of “Trade Report”, paragraph (a)

Items [33] and [34] amend the definition of “Trade Report” to include a reference to a CGS Depository Interest.

Item [35] Rule 1.4.3, definition of “Trading Information”

Item [35] omits and substitutes the definition of “Trading Information”. The new definition provides that Trading Information in relation to CGS Depository Interests has the meaning given by subrule 5.1.6(3) (see item [90] below). Trading Information for Equity Market Products has the meaning given by subrule 5.1.6(2).

Item [36] Rule 1.4.3, definition of “Trading Pause”

Item [36] amends the definition of “Trading Pause” to apply to CGS Depository Interests, in addition to Equity Market Products and (prospectively) ASX SPI 200 Futures.

Item [37] Rule 1.4.3, definition of “Trading Reset”

Item [37] amends the definition of “Trading Reset” to apply to CGS Depository Interests, in addition to Equity Market Products and (prospectively) ASX SPI 200 Futures.

Item [38] Rule 1.4.3, definition of “Under the Rules of a Market”

Item [38] amends the definition of “Under the Rules of a Market” to omit the words “Under the Rules of a Market” and substitute the words “Under the Rules of, in relation to a Market”. This amendment complements amendments made to Rule 7.1.1 (see item [131] below).

Item [39] After Rule 1.4.3

Item [39] inserts, after Rule 1.4.3, a new Rule 1.4.4.

New subrule 1.4.4(1) provides that, subject to subrule 1.4.4(2), the Responsible Market Operator in relation to CGS Depository Interests is the CGS Market Operator. New subrule 1.4.4(2) provides that, where there is more than one CGS Market, the Responsible Market Operator in relation to CGS Depository Interests is the CGS Market Operator determined in writing by ASIC and notified on its website. A notification by ASIC of the Responsible CGS Market Operator will take effect on the later of the date specified in the notification or 60 business days after the notification is made (see new subrule 1.4.4(3)).

Should there be multiple Markets on which CGS Depository Interests are offered, new Rule 1.4.4 allows ASIC to nominate the Market Operator of one of those Markets as the Responsible Market Operator, for the purposes of:

- (a) Chapter 2 (Extreme price movements) of the ASIC Market Integrity Rules (Competition), for example, determining the Reference Price for the Extreme Trade Range, and imposing and lifting Trading Pauses when there is an ETR Event; and

- (b) Chapter 6 (Market Operator Obligations) of the ASIC Market Integrity Rules (Competition), for example, determining which unique symbols all CGS Markets must assign to CGS Depository Interests.

Item [40] Paragraph 2.1A.1(1)(a)

Item [40] amends paragraph 2.1A.1(1)(a) to include reference to “CGS Market Operators”. As a result, Chapter 2 (Extreme price movements) of the ASIC Market Integrity Rules (Competition) will now impose obligations on CGS Market Operators, in addition to Equity Market Operators and (prospectively) Futures Market Operators.

Item [41] Subrule 2.1A.1(2)

Item [41] amends subrule 2.1A.1(2) to include “CGS Depository Interests” in the definition of “Relevant Product” for the purposes of Chapter 2 (Extreme price movements) of the ASIC Market Integrity Rules (Competition). As a result, Chapter 2 now imposes obligations in relation to trading and conduct with respect to CGS Depository Interests, in addition to Equity Market Products and (prospectively) ASX SPI 200 Futures.

Item [42] Subparagraph 2.1.1(5)(b)(i)

Item [42] amends subparagraph 2.1.1(5)(b)(i) to insert references to CGS Depository Interests. Subrule 2.1.1(5) provides the minimum factors that must be taken into account in determining an Anomalous Order Threshold for a Relevant Product. This amendment provides that, in determining an Anomalous Order Threshold for a CGS Depository Interest, the CGS Market Operator needs to take into account, among other factors, the Tick Size for the CGS Depository Interest (see item [131] below).

Item [43] After subrule 2.2.1(2)

Item [43] inserts, after subrule 2.1.1(2), a new subrule 2.1.1(3).

New subrule 2.1.1(3) provides that the Extreme Trade Range for CGS Depository Interests means all prices which are greater than 20% away from the Reference Price for the CGS Depository Interest on the CGS Market.

Item [44] Subrule 2.2.2(4)

Item [44] omits and substitutes subrule 2.2.2(4) (other than the Note below that subrule).

New subrule 2.2.2(4) provides that a Market Operator that operates an Order Book for Relevant Products other than:

- (a) ASX TradeMatch (in the case of Equity Market Products);
- (b) ASX Trade 24 (in the case of ASX SPI 200 Futures); or
- (c) the central Order Book of the Responsible Market Operator for CGS Depository Interests (in the case of CGS Depository Interests),

must determine the Reference Price for each Relevant Product for that Order Book after each Trading Reset on that Order Book, as:

- (d) the price of the Opening Transaction; or
- (e) if paragraph (d) applies and the price of the Opening Transaction is Invalid, a price determined by the Market Operator, acting reasonably, to be not Invalid,

until the Market Operator receives a notification of the Reference Price for the Relevant Product under paragraph (2)(b).

These amendments are necessary to clarify the operation of Rule 2.2.2 in relation to the different Markets and Relevant Products to which it applies.

Item [45] Paragraph 3.1A.1(a)

Item [45] amends paragraph 3.1A.1(1)(a) to include a reference to “CGS Market Participants”. As a result, Chapter 3 (Best execution) of the ASIC Market Integrity Rules (Competition) now applies to CGS Market Participants, in addition to Equity Market Participants.

Item [46] Paragraph 3.1A.1(b)

Item [46] amends paragraph 3.1A.1(b) to include a reference to “CGS Depository Interests”. As a result, Chapter 3 (Best execution) of the ASIC Market Integrity Rules (Competition) now applies to Orders (including Client Orders) in relation to CGS Depository Interests, in addition to Equity Market Products.

Item [47] Subrule 3.1.1(6)

Item [47] amends subrule 3.1.1(6) of the Rules to ensure the references in that subrule to “Orders” are to “Orders in Equity Market Products” only. This amendment clarifies that subrule 3.1.1(6) provides transitional arrangements for compliance with the best execution obligation only in relation to Equity Market Products.

Item [48] Subrule 3.2.3(2)

Item [48] amends subrule 3.2.3(2) of the Rules to ensure the references to “Orders” are to “Orders in Equity Market Products” only. This amendment forms part of the transitional arrangements for compliance with the best execution obligation and complements the amendment to subrule 3.1.1(6) (see item [47] above).

Item [49] Rule 4.1A.1

Item [49] amends Rule 4.1A.1 to insert, before “this Chapter”, “(1)”. This amendment is required to accommodate the introduction of new subrule 4.1A.1(2) (see item [53] below).

Item [50] Paragraph 4.1A.1(a)

Item [50] amends paragraph 4.1A.1(a) (now paragraph 4.1A.1(1)(a) – see item [49] above) to include a reference to “CGS Market Operators”. As a result, Chapter 4 (Pre-Trade Transparency) of the ASIC Market Integrity Rules (Competition) now applies to CGS Market Operators, in addition to Equity Market Operators.

Item [51] Paragraph 4.1A.1(b)

Item [51] amends paragraph 4.1A.1(b) (now paragraph 4.1A.1(1)(b) – see item [49] above) to include a reference to “CGS Market Participants”. As a result, Chapter 4 (Pre-Trade Transparency) of the ASIC Market Integrity Rules (Competition) now applies to CGS Market Participants, in addition to Equity Market Participants.

Item [52] Paragraph 4.1A.1(c)

Item [52] amends paragraph 4.1A.1(c) (now paragraph 4.1A.1(1)(c) – see item [49] above) to include “CGS Depository Interests”. As a result, Chapter 4 (Pre-trade transparency) now applies to Orders and Transactions in CGS Depository Interests, in addition to Equity Market Products.

Item [53] At the end of Rule 4.1A.1

Item [53] inserts a new subrule 4.1A.1(2) at the end of existing Rule 4.1A.1. New subrule 4.1A.1(2) provides that, in Chapter 4, "Relevant Products" means Equity Market Products and CGS Depository Interests. This amendment allows the term “Relevant Product” to be used in Chapter 4 where a Rule applies in relation to Equity Market Products and CGS Depository Interests.

Item [54] Rule 4.1.4 (heading)

Item [54] amends the heading to Rule 4.1.4 to insert, after “Pre-Trade Information”, “—Equity Market Products”. This amendment indicates that Rule 4.1.4 now only defines “Pre-Trade Information” in relation to Equity Market Products. “Pre-Trade Information” in relation to CGS Depository Interests is defined in Rule 4.1.4A (see item [56] below).

Item [55] Rule 4.1.4

Item [55] amends Rule 4.1.4 to insert, after “Order” (first occurring), “for an Equity Market Product”. This amendment provides that Rule 4.1.4 now only defines “Pre-Trade Information” in relation to Orders for Equity Market Products. “Pre-Trade Information” in relation to Orders for CGS Depository Interests is defined in Rule 4.1.4A (see item [56] below).

Item [56] After Rule 4.1.4

Item [56] inserts, after Rule 4.1.4, a new Rule 4.1.4A. New Rule 4.1.4A defines “Pre-Trade Information” in relation to an Order for a CGS Depository Interest.

The Pre-Trade Information that must be made available by a CGS Market Operator under Rule 4.1.2 in relation to CGS Depository Interests is:

- (a) the date on which the Order was received by the Market Operator;
- (b) the time at which the Order was received by the Market Operator;
- (c) the symbol, assigned in accordance with Rule 6.2.3, that identifies the CGS Depository Interest the subject of the Order;
- (d) the number of CGS Depository Interests the subject of the Order;
- (e) whether the Order is a Buy Order or Sell Order; and
- (f) the price per CGS Depository Interest of the Order. The price entered should be price per \$100 nominal, inclusive of interest

Item [57] Paragraph 4.1.5(1)(a)

Item [57] amends the definition of “Partly Disclosed Order” in Rule 4.1.5 to reflect that Pre-Trade Information for CGS Depository Interests is defined in new Rule 4.1.4A (see item [56] above), separately to the Pre-Trade Information for Equity Market Products in Rule 4.1.4.

Items [58] and [59] Rule 4.1.7

Item [58] amends Rule 4.1.7 (Priority for Disclosed Orders and Partly Disclosed Orders) to insert, after the words “Hidden Order” (first occurring), the words “in a Relevant Product”. Item [59] also amends Rule 4.1.7 by omitting the words “Equity Market Products” and substituting the words “Relevant Products”.

These amendments ensure that the requirement to give Time Priority to Disclosed Orders and Partly Disclosed Orders applies in relation to Equity Market Products and CGS Depository Interests.

Item [60] Rule 4.1.8

Item [60] amends Rule 4.1.8 (Dealings to which this Part does not apply) to substitute "Relevant Product" for "Equity Market Product" (wherever occurring). This complements the amendment in Item [52] which extends the application of Chapter 4 (Pre-trade transparency) to include CGS Depository Interests.

Items [61], [62] and [63] Paragraph 4.2.1(1)(b), paragraph 4.2.1(1)(c) and subrule 4.2.1(2)

Items [61] and [63] amends paragraph 4.2.1(1)(b) and subrule 4.2.1(2) to omit references to “Equity Market Products” and substitute references to “Relevant Products”. As a result, the pre-trade transparency exception for Block Trades (paragraph 4.1.1(2)(a)) now applies to Block Trades in CGS Depository Interests. Item [62] amends paragraph 4.2.1(1)(c) to provide that the Block Trade threshold for CGS Depository Interests is \$200,000.

Item [64] Paragraph 4.2.2(1)(c)

Item [64] amends paragraph 4.2.2(1)(c) to omit the reference to “Equity Market Products” and substitute a reference to “Relevant Products”. As a result, the pre-trade transparency exception for Large Portfolio Trades (paragraph 4.1.1(2)(b)) now applies to Large Portfolio Trades that include purchases or sales of CGS Depository Interests.

Item [65] Rule 4.2.3

Item [65] amends Rule 4.2.3 to omit references to “Equity Market Products” and substitute references to “Relevant Products”. As a result, the pre-trade transparency exception for Trades At or Within the Spread (paragraph 4.1.1(2)(c)) applies to Trades At or Within the Spread in CGS Depository Interests.

Items [66] and [67] Rule 4.2.4

Items [66] and [67] amend Rule 4.2.4 to include references to “Relevant Products”. These amendments, along with item [68] below, ensure that the pre-trade transparency exception for Permitted Trades During the Post-Trading Hours Period (paragraph 4.1.1(2)(d)) applies to CGS Depository Interests.

Item [68] Paragraph 4.2.4(e)

Item [68] amend paragraph 4.2.4(e) to omit references to “Equity Market Products” and substitute references to “Relevant Products”. This amendment, along with items [66] and [67] above, ensures that the pre-trade transparency exception for Permitted Trades During the Post-Trading Hours Period (paragraph 4.1.1(2)(d)) applies to CGS Depository Interests.

Items [69] and [70] Rule 4.2.5

Items [69] and [70] amend Rule 4.2.5 to include references to “Relevant Products”. This amendment ensures that the pre-trade transparency exception for Permitted Trades During the Pre-Trading Hours Period (paragraph 4.1.1(2)(e)) applies to CGS Depository Interests.

Items [71], [72] and [73] Rule 4.2.6, paragraph 4.2.6(a)

Items [71], [72] and [73] amend Rule 4.2.6 to include references to “Relevant Products”. This amendment ensures that the pre-trade transparency exception for Out of Hours Trades (paragraph 4.1.1(2)(f)) applies in relation to CGS Depository Interests.

Item [74] Subparagraph 4.3.2(a)(ii)

Item [74] amends subparagraph 4.3.2(a)(ii) to omit the words “relevant Equity Market Product” and substitute the words “Relevant Product”. This amendment clarifies that the obligation to prepare a Crossing System Monthly Report applies in relation to CGS Depository Interests in addition to Equity Market Products.

Item [75] Rule 4.3.3 (table)

Item [75] amends the table in Rule 4.3.3 to omit references to “Equity Market Products” and substitute references to “Relevant Products”. As a result, a Crossing System Monthly Report is defined to include information in relation to CGS Depository Interests in addition to Equity Market Products.

Item [76] Rule 5.1A.1

Item [76] amends Rule 5.1A.1 to insert, before “this Chapter”, “(1)”. This amendment is required to accommodate the introduction of new subrule 5.1A.1(2) (see item [80] below).

Item [77] Paragraph 5.1A.1(a)

Item [77] amends paragraph 5.1A.1(a) (now paragraph 5.1A.1(1)(a) – see item [76] above) to include a reference to “CGS Market Operators”. As a result, Chapter 5 (Post-trade transparency) of the ASIC Market Integrity Rules (Competition) now applies to CGS Market Operators, in addition to Equity Market Operators.

Item [78] Paragraph 5.1A.1(b)

Item [78] amends paragraph 5.1A.1(b) (now paragraph 5.1A.1(1)(b) – see item [76] above) to include a reference to “CGS Market Participants”. As a result, Chapter 5 (Post-trade transparency) of the ASIC Market Integrity Rules (Competition) now applies to CGS Market Participants, in addition to Equity Market Participants.

Item [79] Paragraph 5.1A.1(c)

Item [79] amends paragraph 5.1A.1(c) (now paragraph 5.1A.1(1)(c) – see item [76] above) to include a reference to “CGS Depository Interests”. As a result, Chapter 5 (Post-trade transparency) now applies to Orders and Transactions in CGS Depository Interests, in addition to Equity Market Products.

Item [80] At the end of Rule 5.1A.1

Item [80] inserts a new subrule 5.1A.1(2) at the end of existing Rule 5.1A.1. New subrule 5.1A.1(2) provides that, in Chapter 5, “Relevant Products” means Equity Market Products and CGS Depository Interests. This amendment allows the term “Relevant Product” to be used in Chapter 5 where a Rule applies in relation to Equity Market Products and CGS Depository Interests.

Item [81] Subrule 5.1.1(5)

Item [81] amends subrule 5.1.1(5) to include references to “Relevant Products”.

Subrule 5.1.1(5) concerns the reporting of transactions where a Participant enters into more than one Transaction as Principal and in the same class or products at the same time and for the same price for the purposes of executing a Buy Order of one client against a Sell Order of another client. In such cases, the Participant must take reasonable steps to ensure that those Transactions are reported as a Single Transaction. The purpose of the amendment is to extend that obligation to CGS Depository Interests.

Item [82] Rule 5.1.3

Item [82] amends Rule 5.1.3 (Application to constituent parts of portfolio trade) to include references to “Relevant Products”.

Rule 5.1.3 provides that, where a Participant enters into a single agreement to buy or sell more than one class of products, the Participant may consider each class of products to be bought or sold under the agreement as a separate transaction for the purpose of determining whether that Transaction is a Large Principal Transaction. The amendment extends this provision to apply to CGS Depository Interests.

Items [83] and [84] Rule 5.1.4A (table items 2, 5 and 12) and (table item 6)

Items [83] and Item [84] amend the table in Rule 5.1.4A (Market Operator to validate Post-Trade Information) to include references to “Relevant Products”.

This amendment ensures that the criteria to be used by the Market Operator to validate Post-Trade Information now apply in relation to all Relevant Products (i.e. Equity Market Products and CGS Depository Interests).

Items [85] to [89] Subrule 5.1.6(2) (table items 2, 5 and 6)

Items [85] to [89] amend the table in subrule 5.1.6(2) and add an additional note to that table.

The amendments provide that the Trading Information required under the labels “Last traded price”, “high” and “low” for each Equity Market Product is information relating to prices whether those prices are on an Order Book or in relation to reported Trades at or Within the Spread or Trades with Price Improvement.

The new note confirms that this Trading Information must not include information in relation to Transactions in Equity Market Products reported to the Market Operator under Rule 5.1.1 (Participants to report Transactions done other than on an Order Book of a Market), other than Transactions reported as a Trade at or Within the Spread or a Trade with Price Improvement.

Item [90] After subrule 5.1.6(2)

Item [90] amends the ASIC Market Integrity Rules (Competition) by inserting a new subrule 5.1.6(3).

The new subrule 5.1.6(3) defines the Trading Information to be provided by the Market Operator under subrule 5.1.6(1) with respect to each CGS Depository Interest. In general terms, the Trading Information required is:

- (a) the symbol assigned under Rule 6.2.3 that identifies the CGS Depository Interest ;
- (b) the following information relating to prices of Transactions on an Order Book or in relation to reported Trades at or Within the Spread or Trades with Price Improvement:
 - (i.) the last traded price – the price per CGS Depository Interest of the last Transaction in the CGS Depository Interest;
 - (ii.) the highest and lowest price at which a CGS Depository Interest has been executed on the Trading Day to which the information relates;
- (c) bids and offers on an Order Book. This Trading Information made available by a Market Operator must not include Transactions in CGS Depository Interests reported to the Market Operator under Rule 5.1.1;
- (d) number of Transactions in the CGS Depository Interest executed on an Order Book of, and reported to, the relevant Market on the Trading Day to which the information relates;
- (e) the total value of all Transactions in the CGS Depository Interest executed on an Order Book of, or reported to, the relevant Market, for the Trading Day to which the information relates;
- (f) the trading status for the CGS Depository Interest;
- (g) the fixed interest amount paid at regular intervals;
- (h) the date on which the principal will be repaid;
- (i) the principal or redemption value; and
- (j) if the above information is made available on a delayed basis, the delay, in minutes.

Items [91] and [92] Rule 5.1.7 (heading) and Paragraphs 5.1.7(a), (b) and (c)

Item [91] amends Rule 5.1.7 by inserting “ – Equity Market Products” after “Post-Trade Information” in the heading. Item [92] amends Rule 5.1.7 (Post-Trade Information) by inserting “in Equity Market Products” after “Transaction”, wherever it occurs in paragraphs 5.1.7(a), (b) and (c).

Rule 5.1.7 defines "Post-Trade Information". These amendments restrict the operation of that definition to Transactions in Equity Market Products. The new Rule 5.1.7A (see Item [93]) defines "Post-Trade Information" in relation to a Transaction in CGS Depository Interests.

Item [93] After Rule 5.1.7

Item [93] amends the ASIC Market Integrity Rules (Competition) by inserting a new Rule 5.1.7A (Post-Trade Information – CGS Depository Interests), after the existing Rule 5.1.7.

This amendment defines "Post-Trade Information" in relation to a Transaction in CGS Depository Interest to mean:

- (a) in relation to a Transaction in a CGS Depository Interest:
 - (i.) the date on which the Transaction is executed, unless the Transaction is reported on the same day it is executed;
 - (ii.) the time at which the Transaction was executed;
 - (iii.) the symbol, assigned in accordance with Rule 6.2.3, that identifies the CGS Depository Interest the subject of the Transaction
 - (iv.) the price per CGS Depository Interest of the Transaction; and
 - (v.) if the Transaction was executed:
 - otherwise than by matching of Orders on an Order Book; or
 - without the Pre-Trade Information in relation to the Order being made available, a unique code that identified the exception in subrule 4.1.1(2) or 4.1.2(2) relied upon;
- (b) in relation to a Transaction in a CGS Depository Interest that is cancelled:
 - (i.) a notation or code to identify that the Transaction is cancelled; and
 - (ii.) the date on which the Transaction is executed, unless the Transaction is reported on the same day it is executed.

Item [94] Subparagraph 5.2.1(1)(b)(iv)

Item [94] amends subparagraph 5.2.1(1)(b)(iv) by inserting “or CGS Depository Interests” after “Equity Market Products”.

Rule 5.2.1 defines "Large Principal Transaction". The amendment stipulates the minimum consideration for a Transaction in CGS Depository Interests to fall within that definition.

Item [95] Rule 5.2.2

Item [95] amends Rule 5.2.2 by omitting wherever occurring “an Equity Market Product” and substituting “a Relevant Product”.

Rule 5.2.2 sets out, for the avoidance of doubt, circumstances in which Chapter 5 (Post-trade transparency) of ASIC Market Integrity Rules (Competition) does not apply. The amendment ensures that, where the Chapter would not apply to circumstances in relation to an Equity Market Product, it would also not apply to the same circumstances in relation to a CGS Depository Interest.

Item [96] to [98] Paragraphs 5A.1.1(1)(a) and 5A.1.1(1)(b) and Subrule 5A.1.1(2)

Items [96] to [98] amend Rule 5A.1.1.

The amendments extend the application of Chapter 5A (Regulatory Data) of ASIC Market Integrity Rules (Competition) to CGS Market Operators and CGS Market Participants. Chapter 5A applies to Equity Market Operators and CGS Market Operators from 28 October 2013. It applies to Equity Market Participants and CGS Market Participants from 10 March 2014.

The amendments also provide that the Chapter applies to Orders and Transactions in CGS Depository Interests in addition to Orders and Transactions in Financial Products admitted to quotation on the ASX Market (other than Futures Market Contracts or Options Market Contracts).

Item [99] Subrule 5A.2.2(2)

Item [99] amends subrule 5A.2.2(2) by inserting “than” before “in accordance with”.

The amendment corrects a drafting anomaly.

Item [100] Rule 5A.2.5 (table item 2)

Item [100] amends Item 2 in the table in Rule 6.1A.1 by omitting first occurring “as”.

The amendment corrects a drafting anomaly.

Items [101] to [104] Rule 6.1A.1, Paragraphs 6.1A.1(a), 6.1A.1(b) and 6.1A.1(c)

Items [101] to [104] amend Rule 6.1A.1 (Application of Chapter).

Item [101] inserts (1) to accommodate the creation of new subrules (2) and (3) – see Item [105].

Items [102] to [104] provide that Chapter 6 (Market Operators – Other obligations) of the ASIC Market Integrity Rules (Competition) now applies to CGS Market Operators, CGS Market Participants, and CGS Depository Interests, in addition to Equity Market Operators, Equity Market Participants, and Equity Market Products.

Item [105] At the end of Rule 6.1A.1

Item [105] amends Rule 6.1A.1 by adding new subrules (2) and (3).

Subrule (2) defines "Relevant Products" for Chapter 6 as "Equity Market Products and CGS Depository Interests". This amendment allows the term “Relevant Product” to be used in Chapter 6 where a Rule applies in relation to Equity Market Products and CGS Depository Interests.

Subrule (3) defines “other Market Operator” for Chapter 6 means:

- (a) in relation to an Equity Market Operator, each other Equity Market Operator;
- (b) in relation to a CGS Market Operator, each other CGS Market Operator; and
- (c) in relation to a Relevant Product, the Market Operator of each other Market on which the Relevant Product is quoted.

Items [106] to [108] Subrule 6.1.1(1), Paragraphs 6.1.1(1)(a) and (b)

Items [106] to [108] amend subrule 6.1.1(1). Rule 6.1.1(1) imposes an obligation (subject to limited exceptions) upon a Market Operator to immediately notify each other Market Operator of the placing, lifting or removal of a Trading Suspension.

Item [106] provides that subrule (1) is subject to the new subrule (3) (see Item [109]) as well as subrule (2).

Item [107] omits the bracketed defined term "(other Market Operator)". This is no longer required as the term is now defined in the new Rule 6.1A.1 (see Item [105])

Item [108] amends subrule 6.1.1(1)(a) and (b) to substitute "a Relevant Product" for "an Equity Market Product" (wherever occurring) thereby ensuring that subrule (1) applies to CGS Depository Interests as well as Equity Market Products.

Item [109] After subrule 6.1.1(2)

Item [109] amends subrule 6.1.1 by inserting a new subrule 6.1.1(3).

The amendment provides that the first Market Operator is not required to comply with subrule (1) if the first Market Operator has placed the Relevant Product into a Trading Suspension, or lifted or removed the Trading Suspension, as a result of a notification from a Market Operator under paragraphs (1)(a) or (b).”

Items [110] to [113] Rule 6.1.2(heading), Subrules 6.1.2(1) and 6.1.2(2)

Subrule 6.1.2(1) provides that a Market Operator that receives a notification from another Market Operator that a product has been placed into a Trading Suspension must immediately place each such product into a Trading Suspension on its Market

Subrule 6.1.2(2) provides that a Market Operator that places a product into a Trading Suspension in accordance with subrule (1) may only lift or remove that Trading Suspension after the Market Operator receives a notification from the first Market Operator that the first Market Operator has lifted or removed a Trading Suspension on the same product

Items [110] to [113] amend Rule 6.1.2 by substituting references to "Relevant Product" for the previous references to "Equity Market Products". As a result the obligations apply to CGS Depository Interests as well as Equity Market Products.

Items [114] to [119] Subrule 6.2.1(1), Paragraph 6.2.1(1)(e), Subrules 6.2.1(3), 6.2.1(4) and 6.2.1(5)

Items [114] to [119] amend Rule 6.2.1 (Provision of information by electronic data feed to other Market Operators). Subrule 6.2.1(1) imposes (subject to subrules (2) to (5)) a general obligation on a Market Operator to make available to each other Market Operator through an electronic data feed and in a machine readable format:

- (a) notifications referred to in subrule 2.2.2(2) and Rules 2.2.2B and 2.2.2C;
- (b) Pre-Trade Information referred to in subrule 4.1.2(1);
- (c) Post-Trade Information referred to in subrule 5.1.4(1);
- (d) notifications referred to in Rule 6.1.1; and
- (e) to the extent not covered by paragraph (d), information about the status of trading in each product.

Subrules (2) to (5) make further provision for the circumstances in which this information must be provided

Item [114] omits the bracketed defined term "*(other Market Operator)*" in subrule (1). This is no longer required as the term is now defined in the new Rule 6.1A.1 (see Item [105])

Items [115] to [119] substitute references to "Relevant Product" for the previous references to "Equity Market Product"

These amendments ensure that the rules relating to the making available of this information by a Market Operator apply in relation to CGS Depository Interests as well as Equity Market Products.

Item [120] Subrule 6.2.2(1)

Subrule 6.2.2(1) provides that a Market Operator must assign each of its Participants a unique identifier for the purposes of identifying the Participant in records of Orders, Transactions and other Trading Messages relating to products.

Item [120] amends Rule 6.2.1(1) to omit "Equity Market Products" and substitute "Relevant Products". This ensures that the obligation in subrule 6.2.2(1) applies to records relating to CGS Depository Interests as well as records relating to Equity Market Products.

Item [121] Rule 6.2.3 (heading)

Item [121] amends the heading Rule 6.2.3 to omit "Equity Market Products" and substitute "Relevant Products". The heading now reads "Market Operator must use unique symbols for Relevant Products". The defined term "Relevant Products" includes CGS Depository Interests (see Item [105]).

Item [122] After subrule 6.2.3(2)

Item [122] amends Rule 6.2.3 to insert new subrules 6.2.3(3) and (4).

New subrule (3) provides that the Responsible Market Operator for CGS Depository Interests must assign each CGS Depository Interest a unique symbol for the purpose of identifying that CGS Depository Interest in records of Orders, Transactions and other Trading Messages on its Market; and

New subrule (4) provides that a CGS market Operator (other than the Responsible Market Operator for CGS Depository Interests) must assign the same unique symbol assigned by the Responsible Market Operator under subrule (3) to that CGS Depository Product, for the purposes of identifying that CGS Depository Interest in records of Orders, Transactions and other Trading Messages on its Market.

Items [123] to [125] Paragraphs 6.4.1(1)(b) and 6.4.1(1)(c) and After paragraph 6.4.1(1)(c)

Items [123] to [125] amend Rule 6.4.1 (Market Operators to use standard Tick Sizes).

The amendments provide that a standard tick size of \$0.001 applies for a CGS Depository Interest.

Items [126] to [129] Rule 7.1A.1, Paragraphs 7.1A.1(a), 7.1A.1(b) and 7.1A.1(c)

Items [126] to [129] amend Rule 7.1A.1 (Application of Chapter).

The amendments provide that Chapter 7 (Participants – Other obligations) of the ASIC Market Integrity Rules (Competition) now applies to:

- CGS Markets in addition to Equity Markets;
- CGS Market Participants in addition to Equity Market Participants; and
- Orders and Transactions in CGS Depository Interests as well as Orders and Transactions in Equity Market Products.

Item [130] After subrule 7.1A.1(1)

Item [130] inserts a new subrule (2) which defines "Relevant Products" for Chapter 7 as "Equity Market Products and CGS Depository Interests"

Item [131] Rule 7.1.1

Item [131] amends Rule 7.1.1 (Transactions to be under the Operating Rules of a Market Operator) to omit the Rule and substitutes a new Rule 7.1.1.

- (a) The new rule provides that a participant must not enter into a Transaction in an Equity Market Product other than Under the Rules of an Equity Market;
- (b) a CGS Depository Interest other than Under the Rules of a CGS Market,

unless the Transaction is entered into pursuant to:

- (c) the terms of the Relevant Product, including a redemption; or
- (d) a primary market action, including an Off-Market Bid for the Relevant Products or an issue, allotment or subscription of new Relevant Products.

Items [132] to [134] Rule 7.2.1

Items [132] to [134] amend Rule 7.2.1 (Prohibition on Trading during Trading Suspensions) by substituting references to "Relevant Product" for previous references to "Equity Market Product".

The amendments ensure that the prohibition in that Rule now applies to a CGS Depository Interest, in addition to an Equity Market Product.

Item [135] Rule 7.3.1(b)

Item [135] amends Rule 7.3.1(b) (Multiple Markets – Participant may produce single trade confirmation) to omit “Equity Market Products” in paragraph (b) and substitute “Relevant Products”.

Rule 7.3.1 applies where a Participant is required to give a confirmation to a client in accordance with section 1017F of the Corporations Act, rule 3.4.1 of the *ASIC Market Integrity Rules (ASX Market) 2010* or rule 3.4.1 of the *ASIC Market Integrity Rules (Chi-X Australia Market) 2011* and enters into a Transaction on more than one Market for the purpose of completing a Client Order. The Rule provides that the Participant may accumulate Transactions on different Markets which complete the Client Order on a single Confirmation and specify the volume weighted average price, rather than the price per unit, for all Transactions provided that:

- (a) the client authorised in writing the accumulation and price averaging of two or more Transactions in a Confirmation at or before the time the Order was placed; and
- (b) if requested by the client, the Participant gives to the client a statement of all the individual prices of the products, which are accumulated and averaged in the Confirmation.

The amendment ensures that the Rule applies effectively to CGS Depository Interests.

Schedule 2 – Amendments to Schedule 1 of the ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2012 (No. 1)

Item [1] Item [115]

Item [1] amends Item [115] of Schedule 1 (**the Amending Schedule**) of the *ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2012 (No. 1)* by omitting paragraph 4.2.1(1)(c) and substituting it with a new paragraph 4.2.1(1)(c). Item [115] of the Amending Schedule has not yet commenced.

Paragraph 4.2.1(c) sets out the criteria for the Pre-Trade Transparency exception for Block Trades. Item [1] amends paragraph 4.2.1(1)(c) to provide that the Block Trade threshold for CGS Depository Interests is \$200,000.

Item [2] Item [118]

Item [2] amends Item [118] of the Amending Schedule by omitting Rule 4.2.3 and substituting it with a new Rule 4.2.3. Item [118] of the Amending Schedule has not yet commenced.

Rule 4.2.3 sets out the criteria for the Pre-Trade Transparency exception for Trades with Price Improvement. The new Rule 4.2.3 replaces references in the Rule to a "Equity Market Product" with new references to "Relevant Product" and inserts the additional words "for the Relevant Product" into paragraph 4.2.3(1)(a)(i). This enables the Rule to apply effectively to CGG Depository Interests, in addition to Equity Market Products.

The new Rule 4.2.3 includes the threshold for consideration for a Transaction in Equity Market Products or CGS Depository Interests to which the exception applies. The threshold is currently set at \$0.

ATTACHMENT B – Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2013 (No. 1)

This legislative instrument is 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*.

1. Overview of the Legislative Instrument

The Legislative Instrument extends the scope of *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011 (ASIC Market Integrity Rules (Competition))* to apply to Commonwealth Government Securities (CGS) Depository Interests trading on public exchanges. It amends the Chapters of ASIC Market Integrity Rules (Competition) relating to:

- (a) extreme price movements;
- (b) best execution;
- (c) pre- trade and post-trade transparency;
- (d) regulatory data for market surveillance;
- (e) market operator obligations in a multi-market environment; and
- (f) market participant obligations.

It also makes amendments to certain Trading Information (last traded price, highest price and lowest price) that a market operator must make available on a website within 20 minutes.

The purpose of this Legislative Instrument is to facilitate the Australian Government's decision to allow retail trading of CGS Depository Interests on public exchanges in a similar way to Equity Market Products.

2. Human rights implications

The Legislative Instrument may engage the right to privacy and reputation in Article 17 of the International Covenant on Civil and Political Rights (**Article 17**). Article 17 prohibits unlawful or arbitrary interferences with a person's privacy, family, home (which the UN Human Rights Committee has interpreted as including a person's workplace) and correspondence. It also prohibits unlawful attacks on a person's reputation. It provides that persons have the right to the protection of the law against such interference or attacks. The UN Human Rights Committee has not defined 'privacy'. The Commonwealth Attorney-General's Department has provided guidance that privacy should be understood to comprise freedom from unwarranted and unreasonable intrusion into activities that society recognises as falling into the individual sphere of autonomy. To avoid being considered arbitrary, any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances.

2.1 Chapter 5A may engage the right to privacy and reputation in Article 17

The Legislative Instrument extends Chapter 5A of the ASIC Market Integrity Rules (Competition) to a market participant that trades in a CGS Depository Interest (**CGS Market Participant**) and a market operator that offers trading services in a CGS Depository Interest (**CGS Market Operator**).

Chapter 5A requires a CGS Market Participant to provide certain information (**Regulatory Data**) to a CGS Market Operator in the CGS Market Participant's Orders, Transactions and Trade Reports. Under Chapter 5A, a CGS Market Operator must record the information provided in records of Orders, Transactions and Trade Reports. Under Rule 7.1.1 of the *ASIC Market Integrity Rules (ASX Market) 2010*, the Market Operator of ASX must include Regulatory Data in a live feed of electronic data items delivered to ASIC.

Regulatory Data includes, for each side (buy and/or sell) of the Order or Transaction on which the CGS Market Participant acts as agent for a client, a unique notation, code or number used by the CGS Market Participant to identify the person on whose instructions the Order is submitted or Transaction was executed (referred to as 'Origin of Order or Transaction' information) (see Table item 3 in Rule 5A.2.3). Regulatory Data also includes 'Intermediary ID' information, being the AFSL number of an Automated Order Processing Client that is an AFSL holder and that submits messages into a CGS Market Participant's system as intermediary for its own clients (see Table item 4 in Rule 5A.2.3).

"Origin of Order or Transaction", and possibly "Intermediary ID information" (if an AFSL holder is a natural person) may contain 'personal information' as defined in the *Privacy Act 1988*, being information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. This may be the case where the client is an individual and the CGS Market Participant elects to provide a notation, code or number to identify the individual from which the identity of the individual is apparent or can reasonably be ascertained.

The right in Article 17 is engaged by the Legislative Instrument by reason that the provision and recording of Regulatory Data in accordance with Chapter 5A may:

- (a) involve the collection, storage, security, use or disclosure of personal information;
- (b) create confidentiality or secrecy provisions relating to personal information; and
- (c) provide for mandatory disclosure or reporting of information.

2.1 Compatibility of Chapter 5A with the rights recognised in Article 17

The Legislative Instrument is compatible with the rights recognised in Article 17 of the ICCPR by reason that any interference with a person's privacy or reputation resulting from compliance with Chapter 5A will be lawful and not arbitrary. In particular:

- (a) Chapter 5A is made in accordance with ASIC's power to make market integrity rules dealing with the activities or conduct of persons in relation to licensed markets and in relation to financial products traded on licensed markets (see subsection 798G(1) of the *Corporations Act 2001* (the **Corporations Act**)).
- (b) The Regulatory Data provided and recorded in accordance with Chapter 5A will assist ASIC to perform its function of supervising financial markets, the operators of which are licensed under subsection 795B(1) of the *Corporations Act* (see section 798F of the *Corporations Act*). In particular, it will assist ASIC to observe patterns of Orders or Transactions placed from a single source, and will therefore assist ASIC to detect and deter misconduct such as market manipulation and insider trading.
- (c) The Regulatory Data rule will further the objects of Chapter 7 of the *Corporations Act*, including promoting fair, orderly and transparent markets for financial products (see paragraph 760A(c) of the *Act*). A fair, orderly and transparent market is one in which market misconduct is minimised. Detection and deterrence of market misconduct contribute to

minimising that misconduct, and the Regulatory Data rule will assist ASIC in detecting and deterring that misconduct.

- (d) The Regulatory Data rule is subject to a number of safeguards, including:
- (i.) Any personal information in Regulatory Data provided to ASIC will be protected in accordance with ASIC's legislative obligations under s127 of the *Australian Securities and Investments Commission Act 2001* (the *ASIC Act*), and to the extent the information is personal information, under the *Privacy Act 1988*;
 - (ii.) A CGS Market Participant is not required under Chapter 5A to provide Regulatory Data that directly identifies any person, and may elect to provide a notation, code or number from which the identity of the person cannot be ascertained without further inquiry by ASIC (and subject to the legislative safeguards in the *ASIC Act*); and
 - (iii.) CGS Market Participants and CGS Market Operators will be required to maintain the confidentiality of Regulatory Data provided and recorded in accordance with subrules 5A.2.1(3) and 5A.2.2(2) of the *ASIC Market Integrity Rules (Competition)*.

If the Legislative Instrument was considered to limit the right in Article 17 of the ICCPR, ASIC considers that the Legislative Instrument is nevertheless compatible with that right. The right in Article 17 is not absolute. As noted, the right has implied limitations ('unlawful' and 'arbitrary') and may be subject to a permissible limitation where that limitation aims to achieve a legitimate objective, there is a rational connection between the limitation, and the objective and the limitation is reasonable, necessary and proportionate.

Any limitation imposed on the right by the Legislative Instrument has a clear legal basis, in that it:

- (a) *Aims to achieve a legitimate objective*

The objective of obtaining enhanced data for surveillance is to ensure that ASIC is able to obtain sufficient and appropriate market data in a timely and efficient manner. Obtaining sufficient and appropriate data will ensure ASIC is able to continue to monitor and detect market misconduct in light of rapidly developing technology and increasingly complex strategies. This will assist ASIC to perform its function of supervising financial markets under Part 7.2A of the *Corporations Act*, and to further the statutory objects of Chapter 7 of the *Corporations Act* by promoting fair, orderly and transparent markets for all investors and participants (see s760A(c) of the *Act*).

- (b) *Has a rational connection with the objective*

Regulatory Data (including "Origin of Order" or "Transaction" and "Intermediary ID") information allows ASIC to detect and investigate market manipulation and insider trading with greater efficiency. Without this information, ASIC's surveillance and deterrence functions may be constrained in Australia's rapidly developing market. By ensuring that ASIC is able to obtain sufficient and appropriate Regulatory Data, the rule will enhance ASIC's ability to detect, pursue and deter misconduct which may have an impact on the fairness, orderliness and transparency of Australia's markets.

- (c) *Is reasonable, necessary and proportionate*

Chapter 5A is necessary to achieve the legitimate objective described above because it provides ASIC with a significant additional source of market intelligence, in a timely and efficient manner. The Chapter contains adequate safeguards by only requiring a CGS Market Participant to provide certain information where it is reasonable to do so, and by requiring a CGS Market Participant and a CGS Market Operator to maintain the

confidentiality of the Regulatory Data. Further safeguards are provided by ASIC's statutory obligations to protect confidential and personal information contained in the Regulatory Data.

3. Consultation

ASIC has consulted on its package of amendments to the Instrument through:

- (a) ASIC Consultation Paper 181 *Retail trading in Commonwealth Government Securities (CP 181)*, released on 20 July 2012, proposed amendments to the Competition that are considered necessary to implement the Australian Government's decision to facilitate trading of CGS Depository Interests on public exchanges by retail investors. The consultation package included:
 - Consultation Paper 181 *Retail trading in Commonwealth Government Securities (CP 181)*; and
 - Attachment to CP181: Retail trading in Commonwealth Government Securities – the draft competition market integrity rules reflecting the proposals in CP 181.
- (b) In the lead up to, and during the consultation, a number of meetings were held with various local stakeholders. Information was also sought from overseas regulators and market operators.
- (c) CP 181 built on the findings of Consultation paper 168 *Australian equity market structure: Further proposals*, issued in October 2011, to the extent that they were considered relevant to CGS Depository Interests traded on public exchanges. It also adopted the proposals in Consultation paper 179 *Australian market structure: Draft market integrity rules and guidance* (CP 179) and tailored them to CGS Depository Interests. In settling our final position, we have also taken into consideration submissions to CP 179 where they affect CGS Depository Interests.