

## Australian Securities and Investments Commission

### *Corporations Act 2001 — Subsection 798G(1) — Amendment*

#### 1. Enabling legislation

I, Greg Yanco, with the written consent of the Minister, make the following instrument under subsection 798G(1) of the *Corporations Act 2001*.

Dated this 5<sup>th</sup> day of August 2013.

Signed by Greg Yanco

as a delegate of the Australian Securities and Investments Commission.

#### 2. Title

This instrument is *ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2013 (No. 2)*.

#### 3. Commencement

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 [4D], [8], [10] and [12]	The day after the day on which this instrument is registered under the <i>Legislative Instruments Act 2003</i> .
Item [8]	The day after the end of the period of 3 months beginning on the day on which this instrument is registered under the <i>Legislative Instruments Act 2003</i> .

Items of Schedule 1	Commencement
Items [4D], [10] and [12]	<p>The day after the end of the period of 3 months beginning on the day specified in paragraph 5A.1.1(1)(b) of the <i>ASIC Market Integrity Rules (Competition in Exchange Markets) 2011</i>.</p> <p>Note: Paragraph 5A.1.1(1)(b) of the <i>ASIC Market Integrity Rules (Competition in Exchange Markets) 2011</i> (F2013C00335) specifies the date on which Equity Market Participants and CGS Market Participants (as defined in that instrument) must comply with Chapter 5A (Regulatory Data) of that instrument.</p>

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

Schedule 1 amends the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*.

##### Schedule 1 Amendments

**[1] Rule 1.4.3, definition of “Crossing System”**

*omit*

to its clients

**[2] Rule 1.4.3, definition of “Crossing System”, paragraph (a)**

*omit*

or

**[3] Rule 1.4.3, definition of “Crossing System”, paragraph (b)**

*omit*

,

*substitute*

; or

**[4] Rule 1.4.3, definition of “Crossing System”, after paragraph (b)**

*insert*

(c) any other person whose Orders access the automated service,

**[4A] Rule 1.4.3, definition of “Crossing System Initial Report”**

*omit*

Rule 4.3.1

*substitute*

Rule 4A.2.1

**[4B] Rule 1.4.3, definition of “Crossing System Monthly Report”**

*omit*

Rule 4.3.2

*substitute*

Rule 4A.2.2

**[4C] Rule 1.4.3, definition of “Crossing System Reporting Information”**

*omit*

Rule 4.3.3

*substitute*

Rule 4A.2.3

**[4D] Rule 1.4.3, definition of “Crossing System Reporting Information”**

*omit the definition*

**[4E] Rule 1.4.3, after definition of “Crossing System Reporting Information”**

*insert*

*Course of Sales Information* has the meaning given by subrule 5.1.6A(2).

**[4F] Rule 1.4.3, definition of “Family Company”**

*after “Principal”, insert*

and in the definition of “Prescribed Person”

**[4G] Rule 1.4.3, definition of “Family Trust”**

*after “Principal”, insert*

and in the definition of “Prescribed Person”

**[4H] Rule 1.4.3, after definition of “NMI”**

*insert*

*Non-Public Crossing System Information* has the meaning given by subrule 4A.3.2(5).

**[4I] Rule 1.4.3, after the definition of “Post-Trading Hours Period”**

*insert*

*Prescribed Person* means, in relation to a Participant:

- (a) an Employee, a director, a partner, or officer of the Participant;
- (b) an entity that controls the Participant or a Related Body Corporate of the entity that controls the Participant;
- (c) the Immediate Family of a person referred to in paragraphs (a) or (b);
- (d) a Family Company and a Family Trust of a person referred to in paragraphs (a) to (c);  
and
- (e) where a Participant or a person referred to in paragraphs (a) to (d) is a body corporate, any body corporate or other entity controlled by that body corporate.

**[4J] Rule 1.4.3, after the definition of “Principal”**

*insert*

*Publicly Available Crossing System Information* has the meaning given by subrule 4A.3.1(2).

**[4K] Rule 1.4.3, definition of “Tick Size”, paragraph (a)**

*after “Rule 6.4.1, insert*

or Rule 4A.6.1, as applicable

**[5] After Rule 4.2.6**

*insert*

## **Chapter 4A: Crossing Systems**

### **Part 4A.1 Application**

#### **4A.1.1 Application of Chapter**

This Chapter applies to:

- (a) Participants of the ASX Market, the ASX24 Market, and of the Financial Market operated by Chi-X Australia Pty Ltd (ACN 129 584 667) under *Australian Market Licence (Chi-X Australia Pty Ltd) 2011*; and
- (b) Orders and Transactions in Financial Products able to be traded on a Market referred to in paragraph (a),

unless otherwise specified in each Rule.

Note: There is no penalty for this Rule.

#### **[6] Part 4.3**

*renumber as Part 4A.2*

#### **[7] Rule 4.3.1**

*renumber as Rule 4A.2.1*

#### **[8] Paragraph 4A.2.1(1)(b)(as renumbered by item [7])**

*after “transmits Orders to other Crossing Systems”, insert*

*, or receives Orders from other Crossing Systems*

#### **[9] Rule 4.3.2**

*renumber to Rule 4A.2.2*

#### **[10] Rule 4A.2.2 (as renumbered by item [9])**

*omit the Rule, substitute*

#### **4A.2.2 Reporting Requirements for Crossing Systems – Crossing System Monthly Report**

A Participant that operates a Crossing System during a calendar month must, if there have been any changes during that calendar month to the information last provided to ASIC in the Participant’s Crossing System Initial Report or Crossing System Monthly Report:

- (a) prepare, within 20 business days of the end of the calendar month, a report (the ***Crossing System Monthly Report***) setting out the changes to the information provided in the Participant’s Crossing System Initial Report or Crossing System Monthly Report last provided to ASIC; and

- (b) provide the Crossing System Monthly Report prepared under paragraph (a) to ASIC as soon as practicable after it has been prepared.

Maximum penalty: \$100,000

**[11] Rule 4.3.3**

*renumber to Rule 4A.2.3*

**[12] Rule 4A.2.3 (as renumbered by item [11])**

*omit the Rule*

**[13] After Rule 4A.2.3 (as renumbered by item [11])**

*insert*

## Part 4A.3 Disclosure Requirements for Crossing Systems

### 4A.3.1 Disclosure requirements for Crossing Systems—Information on a website

(1) Subject to subrule (6), a Participant that operates a Crossing System must make available Publicly Available Crossing System Information in relation to that Crossing System:

- (a) on a website that is publicly accessible; and
- (b) free of charge.

(2) For the purposes of these Rules, ***Publicly Available Crossing System Information*** means the information set out in column 3 of the following Table.

Item	Type of information	Publicly Available Crossing System Information
1	Operator	The code identifying the Crossing System.
2	Start Date	The date the Crossing System began to operate in this jurisdiction.
3	Products	The types of Financial Products traded on the Crossing System.
4	Access Criteria	The criteria used to determine eligibility to use the Crossing System.

Item	Type of information	Publicly Available Crossing System Information
5	Aggregation and other Crossing Systems	<p>If Orders in the Crossing System may be executed or matched in another Crossing System because they are transmitted to one or more other Crossing Systems, or if they are executed or matched in the Participant's Crossing System with Orders received from one or more other Crossing Systems:</p> <p>(a) the code identifying the other Crossing System or Crossing Systems; and</p> <p>(b) for each Crossing System identified under paragraph (a), whether Orders are transmitted to the other Crossing System, whether Orders are received from the other Crossing System, or both.</p>

(3) A Participant must, within one business day of implementing changes to the operation of the Crossing System described in the Publicly Available Crossing System Information, update the website where the Publicly Available Crossing System Information is made available, to reflect those changes.

(4) A Participant must give ASIC a copy of:

- (a) the Publicly Available Crossing System Information made available under subrule (1); and
- (b) each update to the Publicly Available Crossing System Information made available under subrule (3),

within one business day of making that information available on the website under this Rule.

(5) ASIC may determine and publish on its website a notification of the Crossing System codes referred to in subrule (2).

(6) A Participant does not need to comply with this Rule until 3 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000

#### **4A.3.2 Disclosure requirements for Crossing Systems—Information for users**

(1) Subject to subrule (6), a Participant that operates a Crossing System must:

- (a) prior to accepting an Order from a client for the first time after the time at which a Participant must comply with this Rule, provide the client with a copy of the Publicly Available Crossing System Information or inform the client of the website address where that information is available; and
- (b) for all clients who have been provided with a copy of the Publicly Available Crossing System Information or informed of the website address where that information is available under paragraph (a), inform those clients each time an update to the Publicly

Available Crossing System Information is made available under subrule 4A.3.1(3), prior to accepting an Order from that client after the information has been updated.

(2) A Participant that operates a Crossing System must:

- (a) prior to accepting an Order from a client for the first time; and
- (b) prior to accepting an Order from a client after the Non-Public Crossing System Information has been updated under subrule (3),

provide that client with a document containing the Non-Public Crossing System Information in relation to that Crossing System.

(3) A Participant must, within one business day of implementing changes to the operation of the Crossing System described in the Non-Public Crossing System Information, update the Non-Public Crossing System Information to reflect those changes.

(4) A Participant must give ASIC a copy of:

- (a) the Non-Public Crossing System Information provided under subrule (2), within one business day of first providing that information; and
- (b) each update to the Non-Public Crossing System Information under subrule (3), within one business day of that update.

(5) For the purposes of these Rules, ***Non-Public Crossing System Information*** means the information set out in column 3 of the following Table.

Item	Type of information	Non-Public Crossing System Information
1	User obligations	A description of the obligations imposed on users of the Crossing System by the operator of the Crossing System.
2	Order Types	A description of the order types available to those who have access to the Crossing System, including a description of the characteristics of each order type.
3	Operations	<p>A description of the operation of the Crossing System, including but not limited to:</p> <ul style="list-style-type: none"> <li>(a) how Orders are managed, including how prices are determined and cancellations are managed;</li> <li>(b) details of any different treatment or arrangements for certain users or order types;</li> <li>(c) the level of anonymity given to Orders, including whether indications of interest are allowed;</li> <li>(d) the circumstances in which Principal Orders may interact with other Orders in the Crossing System, and the nature of the Principal Orders (for example, proprietary desk, facilitation, or market-maker);</li> <li>(e) whether Orders of Related Bodies Corporate of the operator enter the system, and if so, how conflicts arising because</li> </ul>



Item	Type of information	Non-Public Crossing System Information
		<p>Orders of Related Bodies Corporate enter the Crossing System, are managed;</p> <p>(f) how any other conflicts of interest that may arise are managed; and</p> <p>(g) if there are liquidity providers or market makers whose Orders access the Crossing System, the commitments (if any) they may have and any benefits they receive.</p>
4	Fees	The fees imposed for Orders to gain access to the Crossing System, or to be matched or executed in the Crossing System, and an indication whether those fees differ from (e.g. by being in addition to) the Participant's standard fees.

(6) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000

#### 4A.3.3 Notification of Crossing System outages

(1) Subject to subrule (2), if technical or other system issues materially affect the efficiency of or proper functioning of a Crossing System operated by a Participant, that Participant must provide the following information, in writing, to ASIC and all users with Orders in the Crossing System other than users who are Retail Clients:

- (a) a description of the effect of the technical or other system issues;
- (b) how the the technical or other system issues are being managed by the Participant;
- (c) any alternative arrangements for users' Orders that have been put in place by the Participant while the technical or other systems issues persist; and
- (d) when the the technical or other system issues have been resolved,

as soon as practicable after the technical or other system issue arises, or the issue is resolved, as applicable.

(2) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000

## Part 4A.4 Fair treatment, fairness and priority in dealing and opting out by users of Crossing Systems

### 4A.4.1 Fair treatment of all users of a Crossing System

(1) Subject to subrule (3) a Participant that operates a Crossing System must ensure that the Crossing System is operated by a common set of procedures that balance the interests of all users of the Crossing System and do not unfairly discriminate between users of the Crossing System.

(2) Subrule (1) does not prevent a Participant that operates a Crossing System from providing less favourable treatment for its own use of the Crossing System, or less favourable treatment for use of the Crossing System by its Related Bodies Corporate.

(3) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000

#### **4A.4.2 Fairness and priority in dealing**

(1) Subject to subrule (2) a Participant that operates a Crossing System must ensure that the Crossing System deals fairly and in due turn with:

- (a) Clients' Orders; and
- (b) a Client Order and an Order of the Participant trading as Principal.

(2) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of the Rule.

Maximum penalty: \$1,000,000

#### **4A.4.3 Relevant factors**

(1) In considering whether Rule 4A.4.2 has been complied with, the following factors are relevant:

- (a) the Participant acts in accordance with its instructions;
- (b) Orders that do not involve the exercise of discretion by the Participant in relation to the time or price or quantity of the Order are entered in the Crossing System in the sequence in which they are received, and otherwise as expeditiously as practicable;
- (c) Orders of a client (which is not a Prescribed Person) that involve the exercise of discretion by the Participant in relation to the time or price or quantity of the Order are given preference, within the meaning of subrule (2), over the Participant's Principal Orders, unless the client otherwise consents;
- (d) if the sequence of entry of Orders into the Crossing System is not clearly established by the time the Orders were received, and one of the Orders is for the Participant trading as Principal, the Participant gives preference to the Order of a client over the Participant's Principal Order;

- (e) if the Participant has acted in accordance with its procedures to ensure that a person initiating, transmitting or executing an Order who is aware of instructions of a client (which is not a Prescribed Person) to deal in the relevant Financial Products that has not been entered in the Crossing System does not use that information to the disadvantage of that client;
- (f) the Participant buys or sells for a Wholesale Client;
- (g) allocation of Transactions executed on the Crossing System occurs fairly; and
- (h) a Participant's Principal Orders are not knowingly interposed between Orders of its clients that would otherwise have Crossed.

(2) In paragraph (1)(c), a reference to a Participant giving preference to an Order of a client over the Participant's Principal Orders, means that from the time of receipt of the Order until it is fully executed, the Participant does not enter into, as Principal, a Transaction executed on the Crossing System for the same Financial Products on the same terms, having regard to subrule (3), unless:

- (a) the Financial Products are allocated to the client in accordance with the client's instructions; or
- (b) the Financial Products are allocated to the client pursuant to an allocation policy previously disclosed to the client, to which the client consents, under which the Participant may buy or sell (and be allocated) the same Financial Products as Principal.

(3) For the purposes of subrule (2), a limit Order which cannot be executed owing to price differences is not on the same terms.

(4) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of the Rule.

Maximum penalty: \$1,000,000

#### **4A.4.4 Opting out of Crossing Systems**

(1) Subject to subrule (2), a Participant that operates a Crossing System must permit a client or other user of the Crossing System to opt out of having its Orders sent to the Participant's Crossing System (including any other Crossing System that may be accessible through the Participant's Crossing System), and the Participant must not impose on a user that opts out any additional operational or administrative requirements as a consequence of opting out of the Crossing System.

(2) A Participant does not have to comply with this Rule until 3 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000

## Part 4A.5 Crossing Systems—Monitoring and suspicious activity reporting

### 4A.5.1 Monitoring activities in a Crossing System

(1) Subject to subrule (4), a Participant that operates a Crossing System must:

- (a) monitor use of its Crossing System for compliance with the obligations of users described in subrule 4A.3.2(5);
- (b) monitor use of its Crossing System for compliance with the operating procedures of the Crossing System; and
- (c) take action to ensure breaches identified by the Participant during the course of the monitoring undertaken under paragraphs (a) and (b) do not recur.

(2) A Participant must notify ASIC, in writing, of all significant breaches identified by the Participant during the course of monitoring undertaken under Rule 4A.5.1 as soon as practicable after identification of the relevant breach.

(3) A Participant must keep records:

- (a) that demonstrate the monitoring activities it undertakes under Rule 4A.5.1, and
- (b) of all breaches identified under Rule 4A.5.1,

for a period of 7 years.

(4) A Participant does not have to comply with this Rule until 3 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000

### 4A.5.2 Crossing System suspicious activity reporting

(1) Subject to subrules (2) and (3), if a Participant that operates a Crossing System has reasonable grounds to suspect that:

- (a) a person (*the Insider*) has placed an Order into or entered into a Transaction on the Crossing System operated by the Participant in relation to a Financial Product while in possession of inside information (within the meaning of section 1042A of the Act), whether or not the Participant is aware of:
  - (i) the identity of the Insider; or
  - (ii) all of the details of the Order or Transaction; or
- (b) a Transaction or an Order transmitted to or executed on the Crossing System operated by the Participant has or is likely to have the effect of:

- (i) creating an artificial price for trading in Financial Products on a Financial Market operated in this jurisdiction;
  - (ii) maintaining at a level that is artificial (whether or not it was previously artificial) a price for trading in Financial Products on a Financial Market operated in this jurisdiction;
  - (iii) creating, or causing the creation of, a false or misleading appearance of active trading in Financial Products on a Financial Market operated in this jurisdiction; or
  - (iv) creating, or causing the creation of, a false or misleading appearance with respect to the market for, or the price for trading in, Financial Products on a Financial Market operated in this jurisdiction,
- whether or not the Participant is aware of:
- (v) the intention of any party to the Transaction or Order; or
  - (vi) all of the details of the Transaction or Order,

the Participant must, as soon as practicable, notify ASIC in writing of the details of the Transaction or Order (to the extent known to the Participant) and the reasons it suspects the matter set out in paragraphs (a) and/or (b).

(2) A Participant is not required to notify ASIC under subrule (1) if the Participant has reported the information that would otherwise be required to be contained in the notification to ASIC under subrule (1) to the Australian Transaction Reports and Analysis Centre under section 41 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* or under section 16 of the *Financial Transaction Reports Act 1988*.

(3) A Participant is not required to comply with this Rule until 3 months have passed from the commencement of this Rule.

Maximum penalty: \$20,000

### **4A.5.3 Confidentiality**

A Participant who notifies ASIC under subrule 4A.5.2(1) must not disclose that the notification was made, or the information contained in the notification, to any person other than:

- (a) for the purposes of seeking legal advice; or
- (b) as required by law.

Maximum penalty: \$20,000

## **Part 4A.6- Crossing System Tick Sizes and system controls**

### **4A.6.1 Crossing System operators to use standard Tick Sizes**

(1) Subject to subrules (2) and (3), a Participant that operates a Crossing System must not accept, display or queue Orders in its Crossing System in Tick Sizes less than:

- (a) \$0.01 for an Equity Market Product priced at equal to or greater than \$2.00;
- (b) \$0.005 for an Equity Market Product priced at equal to or greater than \$0.10 and less than \$2.00; and
- (c) \$0.001 for an Equity Market Product priced at less than \$0.10.

(2) Subrule (1) does not apply to an Order that, if executed, would result in a Block Trade, Large Portfolio Trade or, in the context of Rule 4.2.3, a Transaction at the Best Mid-Point.

(3) A Participant does not have to comply with this Rule until 3 months have passed from the commencement of this Rule.

Maximum penalty: \$1,000,000

#### **4A.6.2 Crossing System - efficiency and integrity controls**

(1) Subject to subrule (3), a Participant that operates a Crossing System must at all times have appropriate automated filters designed to ensure the efficiency and integrity of the Crossing System.

(2) Subject to subrule (3), a Participant that operates a Crossing System must ensure it has controls that enable immediate:

- (a) suspension of, limitation of, or prohibition on, the entry into any Crossing System operated by the Participant of Orders in a series of related Orders where the Participant has identified that Orders in the series have entered the Crossing System operated by the Participant and have interfered with or are likely to interfere with the efficiency or integrity of the Crossing System; and
- (b) cancellation of Orders in a series that have already entered a Crossing System operated by the Participant where the entry of further Orders in the series has been suspended, limited or prohibited under paragraph (a).

(3) A Participant that is subject to Rule 5.6.1 and 5.6.3 of the *ASIC Market Integrity Rules (ASX Market) 2010* or the *ASIC Market Integrity Rules (Chi-X Australia Market) 2011* does not have to comply with this Rule.

Note: Rule 5.6.1 and 5.6.3 require Participants of the ASX and Chi-X markets to have automated filters and controls.

#### **[14] Paragraph 5.1A.1(1)(c)**

*omit*

*substitute*

,

**[15] Subrule 5.1A.1(1), paragraph (c)**

*insert before "Orders and Transactions"*

except in Rule 5.1.6A,

**[16] After Rule 5.1.6**

*insert*

**5.1.6A Market Operator to make available Course of Sales information within three days**

(1) Subject to subrule (5), a Market Operator must make available, in accordance with subrule (3), Course of Sales Information for each Transaction in a Financial Product executed on or reported to its Market.

(2) For the purposes of these Rules, ***Course of Sales Information*** means, for each Financial Product that is quoted on the Market, the information set out in column 3 of the following Table:

Item	Type of information	Course of Sales Information
1	Product identification	The symbol, assigned in accordance with Rule 6.2.3, or by ASX, that identifies each Financial Product to which the information referred to in items 2 to 9 of this Table relates.
2	Transaction time	The time at which each Transaction was executed by, or a report was received by, the Market Operator.
3	Price	The price of each Financial Product that is the subject of each Transaction.
4	Volume	The number of Financial Products that are the subject of each Transaction.
5	Value	The total dollar value of each Transaction (Volume multiplied by Price).
6	Buy PID	The Participant identifier for the buyer in each Transaction.
7	Sell PID	The Participant identifier for the seller in each Transaction.
8	Condition Code	If the Transaction was a Crossing, the code applicable to the type of Crossing.

Item	Type of information	Course of Sales Information
9	Execution Venue	The code identifying the market, Crossing System or other facility on which the Transaction was executed.

(3) A Market Operator must make available the information required under subrule 5.1.6A(1):

- (a) for each Transaction in a Financial Product executed on, or reported to its Market, on the third business day after the Transaction was executed;
- (b) on reasonable commercial terms; and
- (c) on a non-discriminatory basis.

(4) ASIC may determine and publish on its website a notification of the execution venue codes referred to in item 9 of the Table in subrule (2).

(5) A Market Operator:

- (a) does not have to comply with this Rule until 1 month has passed from the commencement of this Rule; and
- (b) does not have to provide the execution venue code referred to in item 9 of the Table in subrule (2) until the day specified in paragraph 5A.1.1(1)(b).

Note: Paragraph 5A.1.1(1)(b) specifies the date on which Equity Market Participants and CGS Market Participants must comply with Chapter 5A (Regulatory Data).

Maximum penalty: \$1,000,000

## [17] After Rule 7.3.1

*insert*

## Part 7.4 Managing confidential Order information

### 7.4.1 Protection of Order information

(1) A Participant must take reasonable steps to ensure its officers and employees do not use or disclose information about Orders received by the Participant or Transactions resulting from those Orders unless permitted or required under these Rules or the law.

(2) Subrule (1) does not apply to:

- (a) information about Orders or Transactions if that information is generally available;
- (b) Pre-Trade Information about Orders received by a Participant if the Pre-Trade Information has been made available by a Market Operator under Rule 4.1.2;



- (c) Pre-Trade Information about Orders received by a Participant if it is necessary to use or disclose that Pre-Trade Information to execute an Order (including disclosure of the Pre-Trade information in a routing instruction);
- (d) Post-Trade Information about Transactions resulting from Orders received by a Participant if the Post-Trade Information has been made available by a Market Operator under Rule 5.1.4;
- (e) Post-Trade Information about Transactions resulting from Orders received by a Participant if it is necessary to disclose that Post-Trade Information for confirmation or billing purposes;
- (f) information about Orders or Transactions disclosed to a person that:
  - (i) maintains or services the Participant's internal Order management system(s) or Crossing System(s) and who has agreed, in writing to limit its use of the Order and Transaction information disclosed to it to the purposes of that maintenance or service; or
  - (ii) provides Administrative Services or analytical services to or for the Participant in relation to Orders and Transactions and who has agreed, in writing, to limit its use of the Order and Transaction information disclosed to it to the purposes of those Administrative Services or analytical services, as applicable.

(3) For the purposes this Rule, "Administrative Services" includes Order routing or execution services.

(4) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of this Rule.

Maximum penalty: \$1,000,000

## Part 7.5 Order incentives

### 7.5.1 Prohibition on Order incentives

(1) Subject to subrule (3) where a Participant handles or executes an Order as a result of an arrangement with another person (the *other person*) to direct Orders to the Participant, the Participant must not, indirectly or directly, make a cash payment to the other person for the opportunity to handle or execute those Orders if the cash payment leads to the net cost, calculated as set out in subrule (2), being less than the value of the Reported Price for the Transactions the subject of the Orders.

(2) The calculation of the net cost for the purposes of subrule (1) must be done as follows:

Net cost = (*Commission* less the dollar value of any cash payment to the other person) + *Reported Price*

where:

**Commission** means the dollar value of any payment received by the Participant (including commission received from a client of the other person) for the opportunity to handle or execute the other person's Orders; and

**Reported Price** means the total dollar value of the Transaction or Transactions the subject of the other person's Order or Orders as executed on the Market of a Market Operator or, if applicable, reported to a Market Operator under Rule 5.1.1, or if applicable, set out in a confirmation provided to the other person under Rule 3.4.2 of the *ASIC Market Integrity Rules (ASX Market) 2010* or *ASIC Market Integrity Rules (Chi-X Australia Market) 2011*.

Note: Rule 3.4.2 of the *ASIC Market Integrity Rules (ASX Market) 2010* and *ASIC Market Integrity Rules (Chi-X Australia Market) 2011* permits a Participant to accumulate multiple Transactions on a single confirmation and specify a volume weighted average price for those Transactions in specified circumstances.

(3) A Participant does not have to comply with this Rule until 6 months have passed from the commencement of this Rule.

Maximum penalty: \$100,000