

## 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 (ASX 24 Market) Amendment 2013 (No.2)*.

#### 3. Commencement

This instrument commences on the day after the end of the period of 6 months beginning on the day on which this instrument is registered under the *Legislative Instruments Act 2003*.

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

#### 4. Amendments

Schedule 1 amends the *ASIC Market Integrity Rules (ASX 24 Market) 2010*.

### Schedule 1 Amendments

#### [1] Rule 3.1.2

*omit the rule, substitute*

#### 3.1.2 False or misleading appearance

(1) A Market Participant must not offer to purchase or sell a Contract or deal in any Contract:

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

(2) For the purposes of Rule 3.1.2(1)(a), a reference to a Market Participant offering to purchase or sell a Contract or deal in any Contract as Principal includes a reference to offering to purchase, sell or deal in any Contract on its own behalf or on behalf of the following persons;

- (a) a partner of the Market Participant;
- (b) a director of, company secretary of, or person who has a substantial holding in the Market Participant;
- (c) the spouse of, non-adult children of, family company of, or family trust of a partner, director, company secretary, or person who has a substantial holding in the Market Participant;
- (d) a body corporate in which the interests of one or more of the partners of the Market Participant singly or together constitute a controlling interest; and
- (e) a related body corporate of the Market Participant.

(3) For the purposes of Rule 3.1.2(1)(b)(iii), in considering the circumstances of the Order, the Market Participant must have regard to the following matters:

- (a) whether the Order or execution of the Order would be inconsistent with the history of or recent trading in that Contract;
- (b) whether the Order or execution of the Order would alter the market for, or the price of, the Contract;

- (c) the time the Order is entered or any instructions concerning the time of entry of the Order;
- (d) whether the person on whose behalf the Order is placed, or another person who the Market Participant knows to be a Related Party of that person, may have an interest in creating a false or misleading appearance of active trading in any Contract or with respect to the market for, or the price of, any Contract;
- (e) whether the Order is accompanied by settlement, delivery or security arrangements which are unusual;
- (f) where the Order appears to be part of a series of Orders, whether when put together with other Orders which appear to make up the series, the Order or the series is unusual having regard to the matters referred to in this subrule;
- (g) whether there appears to be a legitimate commercial reason for that person placing the Order, unrelated to an intention to create a false or misleading appearance of active trading in or with respect to the market for, or price of, any Contract;
- (h) whether the proposed transaction, bid or offer which is proposed will involve no change of beneficial ownership;
- (i) the frequency with which Orders are placed by a person;
- (j) the volume of Contracts the subject of each Order placed by a person; and
- (k) the extent to which a person amends or cancels an instruction to purchase or sell a Contract relative to the number of transactions executed for that person.