

ASIC MARKET INTEGRITY RULES (FUTURES MARKETS – CAPITAL) 2017

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

Enabling Legislation

The Australian Securities and Investments Commission (**ASIC**) makes the *ASIC Market Integrity Rules (Futures Markets – Capital) 2017* (**Market Integrity Rules (Futures Markets – Capital) or Rules**) under subsection 798G(1) of the *Corporations Act 2001* (the **Act**).

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

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

Subsection 798G(1) of the Act was inserted by Schedule 1 of the *Corporations Amendment (Financial Market Supervision) Act 2010* (the **Amending Act**).

Details of the Market Integrity Rules (Futures Markets – Capital) are contained in Attachment A. Capitalised terms in this Explanatory Statement refer to defined terms in the Market Integrity Rules (Futures Markets – Capital).

Background and Rationale

On 24 August 2009, the Australian Government announced the transfer of the supervisory function for Australia's domestic licensed financial markets from market operators to ASIC. The Amending Act gave effect to this decision and received Royal Assent on 25 March 2010. Consequently the Amending Act provided ASIC with:

- (a) the function of supervising domestic Australian market licensees; and
- (b) the power to make and enforce market integrity rules.

For expedience and to minimise the immediate impact of the transfer of supervision to ASIC, the market integrity rules that were initially made, set out obligations applying to activities and conduct for each licensed domestic market. Those rules generally reflected a subset of the content of the markets' operating rules in effect prior to the transfer of supervision. In 2011 ASIC made the *ASIC Market Integrity Rules (Chi-X Australia Market) 2011* to apply to the (then) new licenced market operated by Chi-X Australia Pty Ltd) and *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*, to address regulatory issues resulting from the introduction of competition between exchange markets for securities, and to provide for some market integrity rules applicable across licenced markets. In 2013 ASIC made the *ASIC Market Integrity Rules (FEX Market) 2013* to apply to the futures market operated by FEX Global Pty Ltd. In 2014 ASIC moved the market integrity rules specifying capital requirements for participants of some markets from their existing rulebooks, into separate capital market integrity rules for those markets, including by making:

- (a) *ASIC Market Integrity Rules (ASX 24 Market-Capital) 2014* to apply to the licensed market operated by the Australian Securities Exchange Limited (the ASX 24 Market) (formerly Sydney Futures Exchange Limited (SFE)) ; and
- (b) *ASIC Market Integrity Rules (FEX Market-Capital) 2014* to apply to the licenced market operated by FEX Global Pty Ltd (the FEX Market).

As part of its supervisory responsibilities, ASIC reviewed the 14 market integrity rule books in force in late 2016 and identified the need to consolidate certain market integrity rule books which covered substantively similar existing obligations across like domestic licensed markets in order to:

- (a) minimise the opportunity for regulatory arbitrage by participants;
- (b) assist participants of the similar domestic licenced markets to comply with their regulatory obligations;
- (c) contribute to efficiency in supervision and enforcement of the market integrity rules by ASIC;
- (d) avoid additional regulatory burden and cost for industry participants;
- (e) ensure consistent regulatory settings and a level regulatory playing field between market operators and between market participants which trade in similar products;
- (f) help promote retail investor trust and confidence and market transparency by ensuring investor protection measures are consistent;
- (g) facilitate market development and competition; and

- (h) reduce ASIC’s administrative burden when amending market integrity rules in future.

The policy objective for creating a single point of reference for market integrity rules that are common between markets aligns with ASIC's regulatory responsibilities under the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) to:

- (a) maintain, facilitate and improve the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy; and
- (b) promote the confident and informed participation of investors and consumers in the financial system.

Accordingly, the rationale for developing the Market Integrity Rules (Futures Markets – Capital) was to provide single capital rule book for market participants across all domestic licensed markets for futures.

The consolidation of market integrity rules setting out capital requirements for futures market participants in these Rules is part of a wider project, which also involves consolidation of the market integrity rules applicable to market operators and participants across all licensed domestic markets for futures (see the *ASIC Market Integrity Rules (Futures Markets) 2017*) and for securities (see the *ASIC Market Integrity Rules (Securities Markets) 2017*), as well as the consolidation of the market integrity rules setting out the capital requirements for securities market participants (see the *ASIC Market Integrity Rules (Securities Markets – Capital) 2017*).

Scope of Rules

The Market Integrity Rules (Futures Markets – Capital) set out the market integrity rules that apply to:

- (a) the activities and conduct of the domestic licensed financial markets in Australia (the **Markets**) operated by:
 - (i) Australian Securities Exchange Limited (the **ASX 24 Market**) (formerly Sydney Futures Exchange Limited (SFE));
 - (ii) FEX Global Pty Limited (the **FEX Market**);
- (b) the activities or conduct in relation to the Markets; and

(c) the activities or conduct of persons in relation to financial products traded on the Markets.

Generally, the Rules maintain the substance of the regulatory regime embodied in following market integrity rules applicable prior to the commencement of the Rules (the ***Pre-Commencement Market Integrity Rules***):

- (a) *ASIC Market Integrity Rules (ASX 24 Market-Capital) 2014*; and
- (b) *ASIC Market Integrity Rules (FEX Market-Capital) 2014*.

The main guiding principle for adopting the Pre-Commencement Market Integrity Rules as the basis for the Market Integrity Rules (Futures Markets – Capital) was to ensure existing common capital requirements that apply to the Markets remained unchanged.

Consultation

ASIC consulted publically on the Market Integrity Rules (Futures Markets – Capital). On 24 January 2017, ASIC released Consultation Paper 227: *Proposals to consolidate ASIC market integrity rules (CP 277)*, including the draft Market Integrity Rules (Futures Markets – Capital).

The consultation period for CP 277 occurred between 24 January 2017 and 7 March 2017. We held over 25 meetings with stakeholders during and following that period. In addition, we consulted ASIC’s Market Advisory Panel on the proposals. ASIC received five non-confidential submissions and six confidential submissions to CP 277 from a broad range of stakeholders including from market participants, market operators and industry associations.

Response to Consultation

The submissions ASIC received supported the proposal to consolidate the ASIC Market Integrity Rules (ASX 24-Capital) and ASIC Market Integrity Rules (FEX-Capital) to create a single capital rule book that applies to participants of the ASX 24 and FEX markets. Respondents also generally agreed that the Market Integrity Rules (Futures Markets – Capital) should commence at least six months after the rule book is made.

Our responses to the other areas of specific consultation as they impact on the Rules are summarised below, and set out in more detail in *Report 547: Response to submissions on CP 277 Proposals to consolidate the ASIC market integrity rules*.

Penalties

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

Subsection 798G (2) of the Act provides that market integrity rules may include a penalty amount for a rule. A penalty amount must not exceed \$1,000,000. The penalty amount set out below a Rule is the penalty amount for that Rule.

Commencement of Rules

Each provision of the Rules commences on the later of:

- (a) 7 May 2018; and
- (b) the day after it is registered on the Federal Register of Legislation

Statement of Compatibility with Human Rights

A Statement of Compatibility of Human Rights is included in this Explanatory Statement at [Attachment B](#).

Regulation impact statement

The Office of Best Practice Regulation (OBPR) has assessed the Rules as having a minor impact on business, community organisations or individuals and confirmed that no further analysis, in the form of a Regulatory Impact Statement is required.

ATTACHMENT

Chapter 1 Introduction

Part 1.1 Preliminary

Rule 1.1.1 – Enabling legislation

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

Rule 1.1.2 Title

Rule 1.1.2 provides that the title for the Rules is *ASIC Market Integrity Rules (Futures Markets – Capital) 2017*.

Rule 1.1.3 Commencement

Rule 1.1.3 provides that the Rules commence on the later of 7 May 2018 and the day after the Rules are registered on the Federal Register of Legislation.

Rule 1.1.3A Revocation

Rule 1.1.3A provides that the following instruments are repealed:

- (a) *ASIC Market Integrity Rules (ASX 24 Market-Capital) 2014*; and
- (b) *ASIC Market Integrity Rules (FEX Market-Capital) 2014*.

Rule 1.1.4 Scope of these Rules

Rule 1.1.4 provides that the Rules apply, as specified in each Chapter, Part or Rule, to:

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

Rule 1.1.5 Entities that must comply with these Rules

Rule 1.1.5 provides that the following entities must comply with the Rules, as specified in each Rule:

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

The compound term ‘Market Participant’ has the same meaning as ‘Participant of a Market’.

Rule 1.1.6 Conduct by officers, Employees or agents

Paragraph 1.1.6(a) provides that in the Rules, conduct engaged in on behalf of a person by officers, Employees or other agents of the person is deemed to have been engaged in by the person.

Paragraph 1.1.6(b) provides that in the Rules, conduct engaged in on behalf of a person by any other person at the direction or with the consent or agreement (express or implied) of an officer, Employee or other agent of the person, is deemed to have been engaged in by the person.

Rule 1.1.7 State of mind of a person

Subrule 1.1.7(1) provides that, if for the purposes of the Rules in respect of conduct engaged in by a person, it is necessary to establish the state of mind of the person, it is sufficient to show that an officer, Employee or other agent of the person by whom the conduct was engaged in had that state of mind.

Subrule 1.1.7(2) provides that, in subrule (1), a reference to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

Part 1.2 Waiver

Rule 1.2.1 – Waiver of Rules and procedures

Subrule 1.2.1(1) provides that subject to Rule 1.2.3, ASIC may relieve any person or class of persons from the obligation to comply with a provision of the Rules, either generally or in a particular case or category, and either unconditionally or subject to such conditions as ASIC thinks fit.

Subrule 1.2.1(2) provides that if any conditions on a waiver are imposed, all of the conditions must be complied with for the waiver to be effective.

Subrule 1.2.1(3) provides that ASIC may withdraw a waiver in writing at any time.

Subrules 1.2.1(4) to (5) provide that a waiver, conditions on a waiver and a request by a person for a waiver must be in writing.

Subrule 1.2.1(6) provides that ASIC may publish notice of a waiver.

Rule 1.2.2 – Compliance with conditions

Rule 1.2.2 provides that failure to comply with a condition imposed under Rule 1.2.1 is a contravention of Rule 1.2.2.

Rule 1.2.3 – Period during which relief applies

Rule 1.2.3 provides that ASIC may specify the period or specific event during which any relief from an obligation to comply with a provision of the Rules may apply.

Rule 1.2.4 – Register

Subrule 1.2.4(1) provides that ASIC may establish and maintain a register for recording details of relief granted under Rule 1.2.1 and sets out the details that may be entered in the register.

Subrule 1.2.4(2) provides that ASIC may publish the register.

Part 1.3 Notice, notification and service of documents

Rule 1.3.1 – Market Participant to have email system

Rule 1.3.1 provides that a Market Participant must acquire and maintain an operating email system for the purposes of receiving notices under the Rules.

Rule 1.3.2 Methods of giving notice in writing

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

Part 1.4 Interpretation

Rule 1.4.1 – References to time

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

Rule 1.4.2 – Words and expressions defined in the Corporations Act

Rule 1.4.2 provides that words and expressions defined in the Corporations Act will unless otherwise defined or specified in the Rules or the contrary intention appears, have the same meaning in the Rules.

Rule 1.4.3 – Definitions

Rule 1.4.3 provides definitions for the following terms used in the Rules:

- “ASIC”;
- “ASX 24”;
- “ASX 24 Market”;
- “ASX Clear”;
- “ASX Clear (Futures)”;
- “Clearing Participant”;
- “Clearing Rules”;
- “Corporations Act”;
- “Employee”;
- “FEX”;
- “FEX Market”;
- “Market”;
- “Other Regulated Entities”;
- “Participant”;

- “Pre-Commencement Market Integrity Rules”;
- “Principal Trader”;
- “Rules”;
- “Trading Participant”;
- “Trading Platform”.

The compound term ‘Market Participant’ has the same meaning as ‘Participant of a Market’.

Part 1.5 Participants of multiple markets

Rule 1.5.1 – Participants may rely on notifications

Rule 1.5.1 provides that a Market Participant may give ASIC the same document in relation to more than one Market in satisfaction of an obligation under the Rules to give that document to ASIC, if it has notified ASIC in writing that it intends to comply with the Rules by relying on that document, or documents of that kind in relation to each Market to which the document applies, and the document contains all the information required had the document been given separately in relation to each Market.

Part 1.6 Transitional

Rule 1.6.1 – Status of notifications and certifications given by a Market Participant under the Pre-Commencement Market Integrity Rules

Subrules 1.6.1(1) and (2) provide that a written notification or certification given by a Market Participant to ASIC under the Pre-Commencement Market Integrity Rules is taken to have been given under the corresponding provision in the Rules, and unless the notification or certification has been withdrawn or otherwise ceased to have effect, it will continue in its existing form and continue to have the same legal effect as when given under the corresponding provisions in these Rules.

Subrule 1.6.1(1A) provides that for the purposes of this Rule an old provision of the Pre-Commencement Market Integrity Rules will correspond to a new provision of the Rules if the old provision and new provisions are substantially the same.

Subrule 1.6.1(1B) provides that for the purposes of subrule 1.6.1(1A), differences of a certain kind will not mean 2 provisions are not substantially the same.

The next provision of the Rules is Chapter 5. This maintains the Pre-Commencement Market integrity rule numbering for the convenience of Participants of the Markets.

Chapter 5: Capital requirements

Part 5.1 Interpretation

Rule 5.1.1 Definitions

Rule 5.1.1 provides definitions for terms used in Chapter 5. Rule 5.1.1 includes definitions of:

- “Approved Subordinated Debt”;
- “NTA” ;
- “NTA Requirements” ;and
- “Subordinated Loan Deed”.

Part 5.2 Capital requirements

Rule 5.2.1 NTA Requirements

Rule 5.2.1 provides that a Trading Participant other than a Principal Trader or a Trading Participant that is a Clearing Participant of a Market who complies with the capital requirements under the relevant Clearing Rules for that Market, must comply with the NTA Requirements.

Chapter 6: Accounts and audit

Part 6.1 Interpretation

Rule 6.1.1 Application of Rules

Rule 6.1.1 provides that Chapter 6 does not apply to Trading Participants that are only approved as Principal Traders, or to Trading Participants that are also Clearing Participants.

Part 6.2 Financial statements

Rule 6.2.1A NTA Requirements: Forms

Rule 6.2.1A provides definitions for terms used in Part 6.2. Rule 6.2.1A provides definitions for:

- “Ad Hoc NTA Return”;
- “Audited Annual NTA Return”;
- “Auditors’ Report on the NTA Return”;
- “Auditors’ Report on the NTA Rules”;
- “Directors’ Declaration”;
- “Directors’ Declaration (Annual Statement)”;
- “Monthly NTA Return”; and
- “Summary NTA Return”.

Rule 6.2.1 Reporting to ASIC

Subrule 6.2.1(1) provides for the preparation and delivery to ASIC of annual financial statements, directors' declarations and auditor's reports in relation to the financial position of the Trading Participant, to ASIC.

Paragraph 6.2.1(2)(a) provides for the form and content of the financial statements, directors' declarations and auditor's reports to be given to ASIC under Rule 6.2.1(1) and provides they must be given to ASIC within 3 months of the end of the financial year of a Trading Participant. Statutory accounts, an Audited Annual NTA Return, Directors' Declaration relating to the Audited Annual NTA Return and a Directors' Declaration (Annual Statement) and Auditors' Report on the NTA Rules and an Auditors' Report on the NTA Return are Auditors' Report on the NTA Rules and an Auditors' Report on the NTA Return are required to be given to ASIC under this Rule.

Paragraph 6.2.1(2)(b) provides for the form and content of Monthly NTA Returns and Directors' Declaration relating to the Monthly NTA Return to be lodged with ASIC within 10 business days of the end of a calendar month.

Subrule 6.2.1(3) provides for the form, content and timing of information that must be provided to ASIC if a Trading Participant's NTA falls below the minimum level required by Rule 5.2.1. ASIC must be notified immediately, and a Summary NTA Return and Directors' Declaration relating to the Summary NTA Return must be given to ASIC within 24 hours under this Rule.

Subrule 6.2.1(4) provides for the form content and timing of information that must be provided to ASIC if the participant's NTA falls below 150% of the minimum level required by Rule 5.2.1. A Summary NTA Return and a Directors' Declaration relating to the Summary NTA Return must be given to ASIC within 5 business days under this Rule.

Subrule 6.2.1(5) provides for the form content and timing of information that must be provided to ASIC if a Trading Participant's NTA decreases by more than 20% since the last notification given to ASIC under Rule 6.2.1. A Summary NTA Return and Directors' Declaration relating to the Summary NTA Return must be given to ASIC within 5 business days under this Rule.

Subrule 6.2.1(6) provides for the form content and timing of information that must be provided to ASIC if the ASIC requests that information in writing. An Ad Hoc NTA Return and Directors' Declaration relating to the Ad Hoc NTA Return must be given to ASIC within 24 hours of receipt by the participant of ASIC's written request.

Subrule 6.2.1(7) sets out that a Directors' Declaration and Directors' Declaration (Annual Statement) under Rule 6.2.1 must be authorised by 2 directors of the Trading Participant whose names appear in the declaration; or 1 director of the Trading Participant whose name appears in the declaration and who has been authorised by the board of the Trading Participant to give the declaration and one representative of the Trading Participant where that representative has been authorised by the board or by another director; or 2 representatives of the Trading Participant whose names appear in the declaration and who have been authorised by the board or each authorised by a different director of the Trading Participant to give the declaration.

Subrule 6.2.1(8) provides that a Trading Participant may comply with the Rules set out below by submitting the information required to be given to ASIC to the electronic return lodgement and monitoring system maintained by a Market operator:

- (a) Subparagraph 6.2.1(2)(a)(ii) (Audited Annual NTA Return);
- (b) Form 3 Part 1 of subparagraph 6.2.1(2)(a)(iii) (Directors' Declaration in relation to Audited Annual NTA Return);
- (c) Subparagraphs 6.2.1(2)(b)(i) and (ii) (Monthly NTA Return and Directors' Declaration);

- (d) Subparagraphs 6.2.1(3)(b)(i) and (ii) (Summary NTA Return and Directors' Declaration if NTA falls below minimum level);
- (e) Paragraphs 6.2.1(4)(a) and (b) (Summary NTA Return and Directors' Declaration if NTA falls below 150% of minimum level);
- (f) Paragraphs 6.2.1(5)(a) and (b) (Summary NTA Return and Directors' Declaration if NTA decreases by more than 20% since last notification to ASIC); and
- (g) Paragraphs 6.2.1(6) (Ad Hoc NTA Return and Directors' Declaration if ASIC makes a written request for that information)

Other information required to be given to ASIC by Rule 6.2.1 may not be given to ASIC by submitting the information to the electronic return lodgement and monitoring system maintained by a Market operator. A Trading Participant may give to ASIC all the information required by Rule 6.2.1 directly to ASIC, and not take advantage of the electronic return lodgement and monitoring system of a Market operator. The subrule also specifies that information other than that specified in the subrule may not be given to ASIC as specified in the subrule.

Subrule 6.2.1 (8A) provides that where a Directors' Declaration is submitted to the electronic return lodgement and monitoring system maintained by a Market operator, each reference in that Directors' Declaration to the *ASIC Market Integrity Rules (ASX 24 Market) 2010* is taken to be a reference to the Rules.

Rule 6.2.2 Scope of audits

Subrule 6.2.2(1) provides that access to its premises, Employees and all records, documents, explanations and other information required by the auditor, must be given by a Trading Participant to an auditor carrying out an audit under Rule 6.2.1(1)(c).

Subrule 6.2.2(2) provides that a Trading Participant must not impose any limitation on the audit required under Rule 6.2.1(1)(c), and the Trading Participant must permit and direct the auditor to notify ASIC immediately if any limitation is imposed on the auditor, or if the auditor is hindered or delayed in the performance of the auditor's duties.

Subrule 6.2.2(3) provides that the records of each of the Trading Participant's nominee companies must be included in the audit Rule 6.2.1(1)(c).

Form 3 Part 1: Directors' Declaration

Form 3 Part 1 sets out the content of the Directors' Declaration relating to the NTA Return required to be given to ASIC under Rules. The information and format of this declaration reflect the format that is accepted by the ASX 24 Market operator's electronic return lodgement and monitoring system for directors' declarations required to be lodged under the operating rules of that Market.

Form 3 Part 2: Directors' Declaration (Annual Statement)

Form 3 Part 2 sets out the content of the Directors' Declaration (Annual Statement) required to be given to ASIC under the Rules.

Form 4 Part 1: Auditors' Report on the NTA Rules

Form 4 Part 1 sets out the content of the Auditors' Report on the NTA Rules required to be given to ASIC under the Rules.

Form 4 Part 2: Auditors' Report on the NTA Return

Form 4 Part 2 sets out the content of the Auditors' Report on the NTA Return required to be given to ASIC under the Rules.

Form 5: NTA Return (Ad Hoc, Monthly and Annual)

Form 5 sets out the detail and form of the NTA return required to be given to ASIC under the Rules. The information and format of this form reflect that of the ASX 24 Market operator's electronic return lodgement and monitoring system.

The footnotes to the NTA Return forms:

- (a) CAS – Dep which specifies the information that must be given about current assets that are deposits;
- (b) NCA-EIA which specifies the information that must be given about non-current assets that are excluded/intangible assets; and
- (c) NLA which specifies the information that must be given about net liquid assets;

provides guidance on the meaning of the line items in the forms for Trading Participants of only the FEX Market.

Form 7

Form 7 sets out the detail and form of the Summary NTA Return required to be given to ASIC under the Rules. The information and format of this form reflect that of the ASX 24 Market operator's electronic return lodgement and monitoring system.

The footnotes to the Summary NTA Return form NCA-EIA which specifies the information that must be given about non-current assets that are excluded/intangible assets provides guidance on the meaning of the line items in the forms for Trading Participants of only the FEX Market.

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 (Futures Markets – Capital) 2017

This legislative instrument (the Rules) 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*, as it does not engage any of the applicable rights or freedoms.

Overview of the legislative instrument

As part of its market supervisory responsibilities, ASIC reviewed the 14 ASIC market integrity rule books in force in late 2016 and identified the need to consolidate certain market integrity rule books which covered substantively similar existing obligations across like domestic licensed markets in order to:

- (a) minimise the opportunity for regulatory arbitrage by participants;
- (b) assist participants of the similar domestic licenced markets to comply with their regulatory obligations;
- (c) contribute to efficiency in supervision and enforcement of the market integrity rules by ASIC;
- (d) avoid additional regulatory burden and cost for industry participants;
- (e) ensure consistent regulatory settings and a level regulatory playing field between market operators and between market participants which trade in similar products;
- (f) help promote retail investor trust and confidence and market transparency by ensuring investor protection measures are consistent;
- (g) facilitate market development and competition; and
- (h) reduce ASIC's administrative burden when amending market integrity rules in future.

The policy objective for creating a single point of reference for market integrity rules that are common between markets aligns with ASIC's regulatory responsibilities under the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) to:

- (c) maintain, facilitate and improve the performance of the financial system and the entities within that system in the interests of commercial certainty, reducing business costs, and the efficiency

- and development of the economy; and
- (d) promote the confident and informed participation of investors and consumers in the financial system.

Accordingly, the rationale for developing the Rules was to provide a single capital rule book for market participants across all domestic licensed markets for futures.

The consolidation of market integrity rules setting out capital requirements for futures market participants in the Rules is part of a wider project, which also involves consolidation of the market integrity rules applicable to market operators and participants across all licensed domestic markets for securities (see the *ASIC Market Integrity Rules (Securities Markets) 2017*) and for futures (see the *ASIC Market Integrity Rules (Futures Markets) 2017*), as well as the consolidation of the market integrity rules setting out the capital requirements for securities market participants (see the *ASIC Market Integrity Rules (Securities Markets – Capital) 2017*).

Scope of Rules

The legislative instrument sets out the ASIC market integrity rules that apply to:

- (a) the activities and conduct of the domestic licensed financial markets in Australia (the **Markets**) operated by:
- (i) Australian Securities Exchange Limited (the **ASX 24 Market**) (formerly Sydney Futures Exchange Limited (SFE));
 - (ii) FEX Global Pty Limited (the **FEX Market**);
- (b) the activities or conduct in relation to the Markets; and
- (c) the activities or conduct of persons in relation to financial products traded on the Markets.

Generally, the Rules maintain the substance of the regulatory regime embodied in following market integrity rules applicable prior to the commencement of the Rules (the **Pre-Commencement Market Integrity Rules**):

- (c) *ASIC Market Integrity Rules (ASX 24 Market-Capital) 2014*; and
- (d) *ASIC Market Integrity Rules (FEX Market-Capital) 2014*.

Human rights implications

The legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

The 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*, as it does not engage any of the applicable rights or freedoms.