

EXPLANATORY STATEMENT for ASIC Market Integrity Rules (Securities Markets) Determination 2018/206

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (**ASIC**) makes ASIC Market Integrity Rules (Securities Markets) Determination 2018/206 under subrule 6.2.1(4) of the *ASIC Market Integrity Rules (Securities Markets) 2017* (the **Rules**).

Under subrule 6.2.1(4), ASIC may determine Tier 1 Equity Market Products and Tier 2 Equity Market Products in writing.

Under subrule 6.2.1(5), an instrument referred to in subrule (4) takes effect from 20 business days following the date the instrument is registered.

Capitalised terms in this Explanatory Statement refer to defined terms in the Rules.

1. Background

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.

Following public consultation, ASIC made the Rules in November 2017. Generally, the Rules maintain the substance of the regulatory regime embodied in market integrity rules (the **Pre-Commencement Market Integrity Rules**) applicable prior to the commencement of the Rules, including the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* (**Competition Rules**). The Rules will repeal the Pre-Commencement Market Integrity Rules on 7 May 2018.

Chapter 6 of the Rules sets out market integrity rules relating to pre-trade transparency of Orders and post-trade transparency of transactions executed on or reported to a Market, including in relation to Equity Market Products. A 'Block Trade' is a key concept in Chapter 6 and has the meaning given by subrule 6.2.1(1).

In order for a transaction to be a Block Trade, among other things, the consideration for the transaction may not be less than consideration thresholds set out in paragraph 6.2.1(1)(c) of the Rules, which differ according to whether the Relevant Product is a

Tier 1 Equity Market Product, Tier 2 Equity Market Product, Tier 3 Equity Market Product or a CGS Depository Interest.

Under subrule 6.2.1(4) of the Rules, ASIC may determine Tier 1 Equity Market Products and Tier 2 Equity Market Products by instrument in writing.

Subrule 6.2.1(4) of the Rules is the successor to subrule 4.2.1(4) of the Competition Rules. Under subrule 4.2.1(4) of the Competition Rules, ASIC may give notice of Tier 1 Equity Market Products and Tier 2 Equity Market Products by publishing a notification on its website. ASIC most recently published such a notification on 12 March 2018 (the **March 2018 notification**): see <http://asic.gov.au/regulatory-resources/markets/market-structure/block-trade-tiers/>

In the instrument, the determinations of Tier 1 Equity Market Products and Tier 2 Equity Market Products under subrule 6.2.1(4) replicate the determinations in the March 2018 notification.

2. Purpose of the instrument

The purpose of the instrument is to determine, for the purposes of paragraph 6.2.1(1)(c) of the Rules, the Tier 1 Equity Market Products and the Tier 2 Equity Market Products.

The instrument maintains the existing policy settings under the Competition Rules by replicating the determinations of Tier 1 Equity Market Products and the Tier 2 Equity Market Products in the March 2018 notification.

3. Operation of the instrument

Name of legislative instrument

Section 1 provides that the instrument is the ASIC Market Integrity Rules (Securities Markets) Determination 2018/206.

Commencement

Section 2 of the instrument provides that the instrument commences on the day that is 20 business days after the instrument is registered on the Federal Register of Legislation.

Authority

Section 3 of the instrument provides that the instrument is made under subrule 6.2.1(4) of the ASIC Market Integrity Rules (Securities Markets) 2017.

Interpretation

Section 4(1) of the instrument provides that, unless the contrary intention appears, capitalised terms have the same meaning as in the Rules.

Subsection 4(2) of the instrument provides that ‘stock code’, in relation to an Equity Market Product, means the unique symbol assigned to the Equity Market Product under Rule 9.2.3 of the Rules and before 7 May 2018 includes the unique symbol assigned to the Equity Market Product under Rule 6.2.3 of the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011*.

Tier 1 Equity Market Products and Tier 2 Equity Market Products

Subsection 5(1) of the instrument provides that each Equity Market Product whose stock code is set out in the table in Schedule 1 to the instrument is a Tier 1 Equity Market Product.

Subsection 5(2) of the instrument provides that each Equity Market Product whose stock code is set out in the table in Schedule 2 to the instrument is a Tier 2 Equity Market Product.

Schedule 1

Schedule 1 provides that a specified Equity Market Product (referred to by its stock code) is a Tier 1 Equity Market Product.

Schedule 2

Schedule 2 provides that a specified Equity Market Product (referred to by its stock code) is a Tier 2 Equity Market Product.

4. Consultation

There has been no consultation because the instrument is minor and machinery in nature.

A Regulatory Impact Statement is not required for this instrument as it maintains under the Rules the existing policy settings in force under the Competition Rules.

Statement of Compatibility with Human Rights

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

ASIC Market Integrity Rules (Securities Markets) Determination 2018/206

ASIC Market Integrity Rules (Securities Markets) Determination 2018/206 (the **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*.

Overview

Chapter 6 of the *ASIC Market Integrity Rules (Securities Markets) 2017* (the **Rules**) sets out market integrity rules relating to pre-trade transparency of Orders and post-trade transparency of transactions executed on or reported to a Market, including in relation to Equity Market Products. A 'Block Trade' is a key concept in Chapter 6 and has the meaning given by subrule 6.2.1(1).

In order for a transaction to be a Block Trade, among other things, the consideration for the transaction may not be less than consideration thresholds set out in paragraph 6.2.1(1)(c) of the Rules, which differ according to whether the Relevant Product is a Tier 1 Equity Market Product, Tier 2 Equity Market Product, Tier 3 Equity Market Product or a CGS Depository Interest.

Under subrule 6.2.1(4) of the Rules, ASIC may determine Tier 1 Equity Market Products and Tier 2 Equity Market Products by instrument in writing.

Subrule 6.2.1(4) of the Rules is the successor to subrule 4.2.1(4) of the *ASIC Market Integrity Rules (Competition in Exchange Markets) 2011* (the **Competition Rules**). Under subrule 4.2.1(4) of the Competition Rules, ASIC may give notice of Tier 1 Equity Market Products and Tier 2 Equity Market Products by publishing a notification on its website. ASIC most recently published such a notification on 12 March 2018 (the **March 2018 notification**).

In this instrument, the determinations of Tier 1 Equity Market Products and Tier 2 Equity Market Products under subrule 6.2.1(4) replicate the determinations in the March 2018 notification.

Human rights implications

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

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Australian Securities and Investments Commission