



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/265**

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I, Anthony Graham, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 23 April 2018

Anthony Graham

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/265*.

### 2 Commencement

This instrument commences on the later of:

- (a) 7 May 2018;
- (b) the day after this instrument is registered on the Federal Register of Legislation.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under subrule 1.2.1(1) of the *ASIC Market Integrity Rules (Futures Markets) 2017 (Rules)*.

### 4 Definitions

- (1) In this instrument:

**Approved Collateral** means securities or other collateral or property accepted by ASX Clear (Futures) under the Clearing Rules.

**Cover** means cash and/or Approved Collateral held by a Market Participant against a Client's liability from time to time.

- (2) In this instrument, unless the contrary intention appears, capitalised terms have the same meaning as in the Rules.

## Part 2—Waiver

### 5 Calling Initial Margin

A Trading Participant of the ASX 24 Market which has agreed to accept and has received Cover by way of Approved Collateral does not have to comply with subrule 7.2.2(4) of the Rules.

Note: This waiver does not affect a Trading Participant's obligations under subrules 7.2.2(1) to (3) of the Rules.

### 6 Satisfaction of Calls for Margin

#### *Waiver*

- (1) A Trading Participant of the ASX 24 Market which has agreed to accept Cover by way of Approved Collateral does not have to comply with any of the following provisions of the Rules:
  - (a) subrule 7.2.5(1);
  - (b) subrule 7.2.5(2);
  - (c) subrule 7.2.5(3).

#### *Conditions*

- (2) It is a condition of the relief in paragraph (1)(a) that the Trading Participant's Client agreement must provide that Calls for Initial Margin and Variation Margin must be satisfied by payment unless the Trading Participant agrees to accept, in lieu of payment, Approved Collateral.
- (3) It is a condition of the relief in paragraph (1)(b) that the Trading Participant's Client agreement must provide that:
  - (a) Approved Collateral received as Cover shall be retained by the Trading Participant until such time as the liability of the Client is extinguished either by the relevant contracts being Closed Out or payment being made by a Buyer or delivery in accordance with the Rules being effected by a Seller; and
  - (b) if the liability of the Client is not extinguished, as set out in paragraph (a), then the Approved Collateral may be realised by the Trading Participant and the proceeds applied against that liability.
- (4) It is a condition of the waiver in paragraph (1)(c) that the Trading Participant must ensure the liability of a Client for Initial Margin is Covered at all times.

Note: The conditions imposed on a waiver must be complied with in order for the waiver to be effective: subrule 1.2.1(2) of the Rules.

## **7 Time for payment of Margins**

### *Waiver*

- (1) A Trading Participant of the ASX 24 Market which has agreed to accept Cover by way of Approved Collateral does not have to comply with Rule 7.2.6 of the Rules.

### *Conditions*

- (2) It is a condition of the relief in subsection (1) that:
- (a) where a Call is made for Initial or Variation Margin, the Trading Participant must stipulate the time for payment or lodgement of Approved Collateral, which must not be greater than:
    - (i) 24 hours if the Client's address is within Australia; or
    - (ii) 48 hours if the Client's address is outside Australia; and
  - (b) the Trading Participant must not provide credit for a Client beyond the periods specified in subparagraphs (2)(a)(i) and (ii) unless:
    - (i) permitted by Rule 7.2.10 of the Rules; or
    - (ii) the Trading Participant exercises a reasonable discretion not to Close Out having regard to:
      - (A) the expertise and financial status of the Client; and
      - (B) any genuine attempts by the Client to meet the Call within the time prescribed; and
      - (C) whether relevant actions or omissions of third parties resulted in the Client failing to pay the Call; and
  - (c) the Trading Participant's Client agreement must provide that time shall be of the essence in respect of payment or lodgement under Part 7.2 of the Rules.

Note: The conditions imposed on a waiver must be complied with in order for the waiver to be effective: subrule 1.2.1(2) of the Rules.

## 8 Obligation of Close Out

### *Waiver*

- (1) A Trading Participant of the ASX 24 Market which has agreed to accept Cover by way of Approved Collateral does not have to comply with Rule 7.2.8 of the Rules.

### *Condition*

- (2) It is a condition of the waiver in subsection (1) that:
  - (a) where a Client is in default by failing to pay a Call (or lodge Approved Collateral) within the time stipulated by the Trading Participant, the Trading Participant must, immediately upon expiry of that time period, Close Out to the extent necessary to counter the Call, all or any existing Open Positions in any Market held by the Trading Participant on account of the Client unless the Trading Participant exercises a reasonable discretion to not Close Out having regard to:
    - (i) the expertise and financial status of the Client; and
    - (ii) any genuine attempts by the Client to meet the Call within the time prescribed; and
    - (iii) whether relevant actions or omissions of third parties resulted in the Client failing to pay the Call; and
  - (b) the Trading Participant's Client agreement must provide that the Trading Participant shall not be liable to the Client for any loss sustained by the Client as a result of the Trading Participant Closing Out in accordance with paragraph (a).

Note: The conditions imposed on a waiver must be complied with in order for the waiver to be effective: subrule 1.2.1(2) of the Rules.