



**ASIC**

Australian Securities & Investments Commission

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# **ASIC Market Integrity Rules (Securities Markets and Futures Markets) Amendment 2018 (No. 1)**

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I, Anthony Graham, delegate of the Australian Securities and Investments Commission, acting with the written consent of the Minister, make the following legislative instrument.

Date 2 May 2018

Anthony Graham

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## **Part 1—Preliminary**

### **1 Name of legislative instrument**

This instrument is *ASIC Market Integrity Rules (Securities Markets and Futures Markets) Amendment 2018 (No. 1)*.

### **2 Commencement**

This instrument commences on the day after it 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 subsection 798G(1) of the *Corporations Act 2001*.

### **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### ASIC Market Integrity Rules (Securities Markets) 2017

#### 1 Paragraph 1.4.5(1)(b)

Omit the paragraph, substitute:

“(b) if the Equity Market Product is able to be traded on more than one Market:

- (i) the Market operator determined by ASIC in writing; or
- (ii) if there is no determination under subparagraph (i) that applies in relation to the Equity Market Product, the Market operator determined under subrules (3) and (4).”

After subrule 1.4.5(2), insert:

“(3) Subject to paragraph (1)(b), the Responsible Market Operator in relation to an Equity Market Product that is able to be traded on more than one Market and is a quoted ED security is the operator of the listing market in relation to:

- (a) if the Equity Market Product is a quoted ED security because of subsection 111AE(1) of the Corporations Act—the Issuer of the Equity Market Product; and
- (b) if the Equity Market Product is a quoted ED security because of subsection 111AE(1A) of the Corporations Act—the undertaking to which the Equity Market Product relates.

(4) Subject to paragraph (1)(b), the Responsible Market Operator in relation to an Equity Market Product that is able to be traded on more than one Market and is not a quoted ED security is:

- (a) the Market operator (and if more than one, the first such Market operator) with whom:
  - (i) if the Equity Market Product is an interest in a managed investment scheme—the operator of the scheme;
  - (ii) otherwise—the Issuer of the Equity Market Product;

has an agreement in force under which the Issuer or operator of the scheme agrees to be bound by operating rules of the Market that deal with admission of that class of financial product to quotation;  
or

- (b) otherwise, the operator of the first of those Markets on which the Equity Market Product is admitted to quotation.”

## 2 Part 2.4 Retail client Adviser Accreditation

After Rule 2.4.22, insert:

### “Rule 2.4.23 Application for review by Administrative Appeals Tribunal of certain decisions made under this Part

- (1) Subject to this Rule, applications may be made to the Tribunal for review of a decision made by ASIC under:
  - (a) subrule 2.4.9(1) to accredit a person subject to conditions; or
  - (b) subrule 2.4.10(1) to reject an application for accreditation of a person; or
  - (c) in respect of a person nominated for an exemption under subrule 2.4.11(1) from the requirement to sit an Accreditation Examination:
    - (i) subrule 2.4.11(1) to refuse the exemption; or
    - (ii) subrule 2.4.11(3) to require the person to complete and pass a modified version of an Accreditation Examination; or
  - (d) subrule 2.4.12(5) to refuse an application for permission to sit an Accreditation Examination again; or
  - (e) paragraph 2.4.15(1)(c) to reject an application to renew the accreditation of a person; or
  - (f) paragraph 2.4.15(1)(d) to renew the accreditation of a person subject to conditions; or
  - (g) subrule 2.4.19(1) to suspend or withdraw the accreditation of a person; or
  - (h) subrule 2.4.20(4) to re-accredit a person subject to conditions.
- (2) Subject to this Rule, applications may be made to the Tribunal for review of a decision deemed to have been made by ASIC under subrule 2.4.14(1) or paragraph 2.4.15(1)(d) because of the operation of subsection 25(5) of the *Administrative Appeals Tribunal Act 1975*.
- (3) An application made under subrule (1) or (2) may only be made by:
  - (a) in relation to paragraphs (1)(a) and (b):
    - (i) the Market Participant that made the application for accreditation under Rule 2.4.6, 2.4.7 or 2.4.8; or

- (ii) the person in respect of which the application was made;
  - (b) in relation to subparagraphs (1)(c)(i) and (ii):
    - (i) the Market Participant that nominated the person for the exemption under Rule 2.4.11; or
    - (ii) the person that was nominated by a Market Participant, or that applied, for the exemption;
  - (c) in relation to paragraph (1)(d):
    - (i) the Market Participant that made the application for permission for the person to sit the Accreditation Examination again under Rule 2.4.12; or
    - (ii) the person in respect of which the application was made;
  - (d) in relation to paragraphs (1)(e) and (f) and subrule (2):
    - (i) the Market Participant that made the application for renewal of accreditation under Rule 2.4.13; or
    - (ii) the person in respect of which the application was made;
  - (e) in relation to paragraph (1)(g):
    - (i) the person whose accreditation has been suspended or withdrawn; or
    - (ii) the Market Participant for which the person is a Representative;
  - (f) in relation to paragraph (1)(h):
    - (i) the Market Participant that made the application for re-accreditation under Rule 2.4.20; or
    - (ii) the person in respect of which the application was made.
- (4) In this Rule:

**decision** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Note: There is no penalty for this Rule.

#### **Rule 2.4.24 Notice of reviewable decision and review rights**

- (1) This Rule applies if ASIC makes a decision to which Rule 2.4.23 applies.
- (2) ASIC must take such steps as are reasonable in the circumstances to give to each person who may make an application for review of the decision under Rule 2.4.23 notice, in writing or otherwise:

- (a) of the making of the decision; and
- (b) of the person's right to have the decision reviewed by the Tribunal.
- (3) A failure to comply with this Rule does not affect the validity of the decision.
- (4) This Rule does not apply to a decision to which Rule 2.4.23 applies that is deemed to have been made because of the operation of subsection 25(5) of the *Administrative Appeals Tribunal Act 1975*.

Note: There is no penalty for this Rule. ”

**3 Subrule 2.4.14(1)**

After “Renewal Date”, insert “by one Business Day after the Renewal Date”.

**4 Paragraph 2.4.15(1)(d)**

After “person's accreditation”, insert “with effect from the Renewal Date by one Business Day after the Renewal Date,”.

**5 Rule 5A.3.3 Relevant factors**

Omit “Maximum penalty: \$1,000,000”, substitute “Note: There is no penalty for this Rule.”

## **ASIC Market Integrity Rules (Futures Markets) 2017**

**6 Rule 5.3.3 Relevant factors**

Omit “Maximum penalty: \$1,000,000”, substitute “Note: There is no penalty for this Rule.”