

EXPLANATORY STATEMENT for ASIC Market Integrity Rules (Securities Markets) Determination 2018/445

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 2018/445 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

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.

Rule 6.2.1 of the Rules is the successor to Rule 4.2.1 of the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011 (**Competition Rules**) which was repealed on 7 May 2018 following consolidation of the pre-existing market integrity rules.

The instrument maintains ASIC's policy of determining the allocation of Equity Market Products to tiers based on a periodic calculation of 2.5% of each product's average daily value transacted in the preceeding six month period (or other material number of Trading Days if the product was not quoted during the entire period).

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 and with effect from its commencement, the Tier 1 Equity Market Products and the Tier 2 Equity Market Products.

The instrument maintains the existing policy settings under *ASIC Market Integrity Rules (Securities Markets) Determination 2018/206*.

3. Operation of the instrument

Name of legislative instrument

Section 1 provides that the instrument is the ASIC Market Integrity Rules (Securities Markets) Determination 2018/445.

Commencement

Section 2 of the instrument provides that the instrument commences on the later of:

- (a) 9 July 2018; and
- (b) 20 business days after the day 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.

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

In November 2010 and October 2011, ASIC consulted on its policy of determining the allocation of Equity Market Products to tiers based on a periodic calculation of average daily value in Consultation Paper 145 *Australian equity market structure: Proposals* and with further refinements in Consultation Paper 168 *Australian equity market structure: Further proposals* respectively.

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

A Regulatory Impact Statement is not required for the instrument as it maintains the existing policy settings in force under *ASIC Market Integrity Rules (Securities Markets) Determination 2018/206* and its predecessors.

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 2018/445

ASIC Market Integrity Rules (Securities Markets) Determination 2018/445 (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.

The instrument maintains ASIC's policy of determining the allocation of Equity Market Products to tiers based on a periodic calculation of 2.5% of each product's average daily value transacted in the preceeding six month period (or other material number of Trading Days if the product was not quoted during the entire period).

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