



SFE NOTICE NO.

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## NEW ASX OPERATING RULES TO BE INTRODUCED AS A CONSEQUENCE OF NEW ASIC MARKET INTEGRITY RULES

### **There is new law which means that ASIC will supervise trading on licensed Australian financial markets**

The Government introduced legislation (the new law) into Parliament on 10 February 2010 to amend the *Corporations Act 2001* to provide for the Australian Securities and Investments Commission (ASIC) to supervise trading on financial markets with a domestic Australian market licence.

The new law provides that ASIC can make market integrity rules which will operate together with the operating rules of these financial markets.

Two financial markets licences, one for the ASX securities and derivatives market and another for the SFE futures market, are held within the group of companies which comprise the Australian Securities Exchange.

The new law removes the obligation for all market operators to have adequate arrangements for **supervising the market** and replaces this with the obligation to have adequate arrangements for **operating the market**. The operating rules of ASX and SFE need to be changed to take account of the changes to the roles of ASIC and market operators, and to ensure that there is no inconsistency or overlap with ASIC's market integrity rules.

### **Today ASIC released ASIC market integrity rules for consultation**

ASIC has released for consultation a set of [proposed market integrity rules](#) for each of the ASX and SFE markets. ASIC's market integrity rules are based on the rulebooks which the Australian Securities Exchange has developed for each market.

The Australian Securities Exchange has assisted ASIC to develop the ASIC market integrity rules for consultation by providing comments on a preliminary draft of those rules. ASX will continue to work with ASIC on operational transition issues to minimise impact upon Market Participants.

### **New Operating Rules for ASX and SFE markets which take account of the new law**

Matters currently covered by today's ASX Market Rules and SFE Operating Rules will be split between market integrity rules to be supervised by ASIC and separate operating rules to be administered by ASX. Consequently, market integrity rules will not be included in the ASX and SFE operating rules after the ASIC market integrity rules come into effect. This reflects the new responsibility that ASIC has to supervise trading on financial markets with a domestic Australian market licence.

This means that from the date on which responsibility for the supervision of trading on financial markets transfers to ASIC there will be two new sets of ASIC market integrity rules that apply to ASX's financial markets – one for the ASX securities and derivatives market and another for the SFE futures market. The ASIC market integrity rules will operate along side revised ASX Market Rules and SFE Operating Rules.



It has been necessary for ASX to restructure the operating rules to provide a clear and workable rules framework once the market integrity rules are deleted. In developing its new operating rules ASX is seeking to maintain the status quo where possible, while presenting rules in a simpler and more concise format.

At the same time, ASX is taking the opportunity to:

- ensure that the rules appropriately reflect the role and responsibilities of ASX going forward as a financial market operator;
- present the operating rules in a more logical format;
- remove duplication and delete rules which are no longer necessary;
- move some material to the procedures to make the rules more concise and remove unnecessary references to specific functionality in the rules;
- achieve consistency between the ASX and SFE Operating Rules, where useful and possible; and
- include the mechanics for managing the transfer of responsibilities to ASIC in transitional rules.

At this time two separate rulebooks will be continued by ASX - one for the ASX securities and derivatives market and another for the SFE futures market.

Transition and ongoing provisions for breach and appeal processes are still under consideration with ASIC. A simpler process for enforcing compliance with the operating rules is being proposed, which is likely to involve replacing the current Disciplinary Tribunal determination process with ASX determined sanctions reflective of the seriousness of the breaches and the ongoing licence obligations of market operators (such as monetary penalties for failure to comply with operational rules). To the extent that the sanction involves a penalty above a certain threshold (expected to be in the order of \$20,000) or involves suspension or termination action there will be a subsequent right of appeal.

There is also an ongoing issue concerning rules about margins, death of a client and default by a client (all in relation to futures contracts). The issue of where (and if) these rules will appear under the new arrangements is still to be resolved.

### **Draft ASX operating rules scheduled to be released in mid April**

A copy of the proposed framework for the [SFE](#) and [ASX](#) operating rules are included. This also shows the existing rules which will be covered under each new section. The details of these rules are still being finalised. Under the new law the operating rules for each financial market remain subject to the Ministerial dis-allowance process set out in the *Corporations Act*.

ASX intends to release a copy of the draft operating rules for the purpose of consultation at the same time it lodges the new operating rules on an informal basis with ASIC. This is currently planned for mid April 2010.

### **ASX will run an education program for Participants**

There will be an education program for participants in relation to the new rules framework. This will include education briefings on the new framework, a reference table comparing the old and new rules, and information on ASX-Online.

### **No change to oversight of listed entities**

The new law does not change the existing oversight of listed entities.



## **Ongoing supervision of clearing and settlement participants**

The new law does not change the obligations on ASX's clearing and settlement facility operators, in particular the obligations for the supervision of the facility and enforcement of compliance with the operating rules by clearing and settlement participants.

The ASX group continues to monitor changes to the supervision of financial markets and the industry structure to assess the requirement for any consequential changes that may be needed to the obligations imposed on clearing and settlement participants. There may be consequential changes needed as a result of the changes to the ASX and SFE operating rules and as details become available on changes to the supervision of trading on financial markets, breach and appeal processes, or as the Government continues to give consideration to the matter of licences for multiple venues to trade in ASX securities.

## **Further information**

Participant inquiries: contact Robert Coaldrake, General Manager, Futures and Capital (02 9227 0223).

Media inquiries: contact Matthew Gibbs, Manager Corporate Relations (02 9227 0218).

**Amanda Harkness**

**General Counsel and Company Secretary**

ASX Limited  
20 Bridge Street  
Sydney NSW 2000  
Australia