



30 June 2011

Mr John Chellew  
Lawyer  
Market and Participant Supervision  
Australian Securities and Investments Commission  
GPO Box 9827  
Melbourne VIC 3001

Dear Mr Chellew

### **CP 161 MIR for Capital and Related Requirements**

The Australian Financial Markets Association (AFMA) welcomes the opportunity to provide comments to the Commission on its *Consultation Paper 161 Proposed ASIC market integrity rules for capital and related requirements: ASX, ASX 24 and Chi-X markets*.

The transition to ASIC from ASX Group of the supervision and enforcement of capital, reporting and margin requirements for non-clearing market participants is an important step in the establishment of a competitive market operator environment.

Market Participants are supportive of ASIC's suggested approach of modelling the proposed market integrity rules in this area around the current requirements in the ASX and ASX 24 Operating Rules, and interpreting the rules on the basis of the ASX Group's *Capital Liquidity Handbook* and *Capital Requirements Guidance* for the ASX market, as providing the least disturbance to the current system and existing practices.

Causing minimal impact to Market Participants is particularly important in view of the compliance burden resulting from the scope and depth of the regulatory reforms underway to prepare for market operator competition.

AFMA supports ASIC's proposal to grant waivers to the proposed market integrity rules equivalent to all existing waivers to the ASX and ASX 24 Operating Rules as consistent with minimising impact. With regard to potential waivers for the Chi-X market we support the consultative approach proposed in CP 161 and would be pleased to engage with ASIC in this regard.

Subject to the concerns we will outline in relation to the proposed changes to reporting requirements being resolved, Market Participants are supportive of a direct transition of supervision from ASX and ASX 24 to ASIC on 1 August 2011.

With regards to the application of the proposed rules to the Chi-X market, the approach of minimal divergence from those rules for the ASX market to reflect the differences in derivative licensing is viewed as consistent with principles of competitive fairness and is supported by Market Participants.

The ability to meet reporting requirements for participants of both the ASX and Chi-X markets with a single submission reflecting one amount of capital is also a sensible result. This result should be retained under any subsequent review to ensure that additional market operators do not unnecessarily add to the costs associated with this reporting.

For increased efficiency AFMA would like to suggest that the report format currently produced for ASX and soon for Chi-X also be accepted by ASX 24. As it stands, the information is the same in each report, but the presentation is different. To reduce time and effort taken, and for the sake of consistency, AFMA would like to see one report across all three exchanges and any future exchanges.

In relation to ASIC's proposal to require daily reconciliation of client money for ASX 24 market participants, as noted in our submission to CP 152, AFMA views daily reconciliations of clients' segregated accounts as desirable and in line with practice for the ASX market.

However, the requirements for daily reconciliation proposed by ASIC in the draft appear to require the same procedures as for the monthly reporting. This may require 3-4 hours additional work by the relevant teams on a daily basis.

We would request that ASIC work with the industry to formulate a lighter daily reconciliation requirement than that required for monthly reporting, with clear procedures provided to the industry.

The start date for the proposed daily reconciliation requirement of 1 January 2012 is also appropriate in that it provides some time for the required system adjustments.

In relation to ASIC's proposed to change the ASX 24 monthly capital returns lodging time to 10 days down from one month, from the end of each month starting from 1 August 2011, Market Participants have expressed some concern that this will not be possible with their existing systems.

Further they have also indicated that a period of one month for lodgement allows ASX Clear Participants to align with the requirement to provide an NTA to the ASX. As such AFMA would oppose this reduction in time allowed for lodgement.

The alignment of the reporting requirements between ASX and ASIC would assist Market Participants in meeting the obligations to both regulators in a timely manner.

AFMA appreciates ASIC's continued commitment to industry engagement including on matters such as those considered in CP 161. Please do not hesitate to contact me at [djeffree@afma.com.au](mailto:djeffree@afma.com.au) or (02) 9776 7993 for further information on AFMA's response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Jeffree', with a stylized flourish at the end.

**Damian Jeffree**  
**Directory - Policy**