



ASIC

Australian Securities & Investments Commission

REPORT 277

ASIC supervision of markets and participants: July to December 2011

February 2012

About this report

This report summarises key operational statistics and outcomes of ASIC's market and participant supervisory functions in relation to ASX, ASX 24 and other Australian market licensees for the period 1 July 2011 to 31 December 2011.

A summary of ASIC's markets-related deterrence outcomes, for the period 1 January 2010 to 31 December 2011, is provided in Section D of the report. Reporting against this timeframe takes into account the time required to conduct an investigation and undertake court actions.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

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Overview

ASIC is responsible for supervision of Australian market licensees. To that end, we conduct real-time surveillance of ASX and, since 31 October 2011, Chi-X. We supervise compliance in those markets with the *Corporations Act 2001* (Corporations Act) and ASIC market integrity rules. We also seek to ensure that Australian financial services (AFS) licence conditions are met by market participants.

Our core objective, in the supervision of Australian market licensees, is investor confidence that our markets are fair and efficient. This requires our market infrastructure to be robust; that trading, clearing and settlement of transactions is orderly and efficient; and market misconduct is minimised. We do this through ongoing engagement with stakeholders, surveillance of markets and market participants, education, guidance, and our deterrence activities.

We are committed to reducing the incidence of market misconduct by:

- ensuring that market participants have better controls in accordance with required standards;
- supervising markets and market participants to detect market misconduct quickly; and
- conducting timely investigations of market and market participant misconduct, resulting in significant penalties where appropriate.

This report summarises key operational statistics and outcomes of our market and market participant supervisory functions in relation to ASX, ASX 24 (previously the Sydney Futures Exchange) and other Australian market licensees for the reporting period 1 July to 31 December 2011. Section A outlines key outcomes achieved during the period. Of particular note is that four people were found guilty of insider trading and all of them agreed to plead guilty promptly after discussions with ASIC.

Section B provides details of our real-time market surveillance and supervision activity for the period 1 July to 31 December 2011. During this time, there were 20,029 trade surveillance alerts. We conducted enquiries into 131 market matters. A total of 23 matters were referred to ASIC's Deterrence team for formal investigation. We also engaged with market participants in relation to market matters on 21 occasions, including raising concerns about potentially disruptive execution strategies, and algorithmic trading issues.

Section C summarises our market participant supervision activity for the period 1 July to 31 December 2011. This includes surveillance,¹ monitoring and remediation work, and risk-based assessment visits.²

Section C summarises market participant compliance applications, waivers, notifications and exemptions. In this reporting period, we received a total of 245 applications³ from market participants (two were already open as at 30 June 2011) and 385 notifications⁴ (eight were already open as at 30 June 2011). We completed 243 participant applications and 385 notifications. A total of four market participant matters were referred to ASIC's Deterrence team for formal investigation.

Section D summarises our markets-related deterrence outcomes from 1 January 2010 to 31 December 2011. Reporting against this timeframe takes into account the time required to conduct an investigation and undertake court actions. The report compares the latest two-year rolling reporting period to that covered in the previous report. Section D also provides an overview of key enforcement outcomes from the current six-month reporting period.

¹ The term 'surveillance' is used to refer to the process of gathering and analysing particular information on a particular market participant or other relevant entity. We conduct surveillance to assess and enforce compliance with financial services laws and ASIC market integrity rules to produce constructive change by all market participants and to promote public confidence in Australia's financial markets and its participants.

² Risk-based assessments are an analysis of the business of a licensee, the risks inherent in its business model and how it is managing those risks.

³ This includes accredited derivatives adviser (ADA) accreditation, reaccreditation, exemptions and business connections consents.

⁴ 'Notifications' includes professional indemnity insurance, responsible executive changes and ADA withdrawals.

A Market and participant supervision: Key outcomes

Table 1 summarises the markets enquiries and Deterrence team referrals from our market and participant supervision between 1 July and 31 December 2011, and includes the data for the first 11 months of supervision undertaken by ASIC from 1 August 2010 to 30 June 2011.

Table 1: Enquiries and Deterrence team referrals

Outcomes (number of matters)	Previous periods		Current period
	1 Aug–31 Dec 2010*	1 Jan–30 June 2011	1 July–31 Dec 2011
Enquiries: markets	91	121	131 [†]
Deterrence referrals: markets	17	35	23
Deterrence referrals: market participants	4	8	7
Enforcement outcomes ^{††}	6	3	8

* The initial reporting period was five months—from 1 August to 31 December 2010.

[†] This figure now includes formal enquiries using our coercive powers and informal enquiries.

^{††} See Section D for details regarding specific outcomes.

Main issues: Enquiries and Deterrence team referrals

The main issues for each type of outcome in Table 1 were:

- for enquiries (markets)—potential market misconduct matters, including insider trading, market manipulation and market integrity rule breaches identified by the Market Surveillance team;
- for Deterrence referrals (markets)—potential insider trading, breaches of market integrity rules and market manipulation; and
- for Deterrence referrals (market participants)—breaches of market integrity rules, misleading and deceptive conduct, and the provision of inappropriate advice.

One of the benefits of ASIC taking on responsibility for market supervision has been the reduction in time taken to commence investigations into suspicious market conduct from the first indication of suspicious conduct. The duplication of enquiry between ASX and ASIC has been removed. This report demonstrates that we continue to build upon the results achieved in the first 11 months of supervision. Of the 75 market matters referred to Deterrence since ASIC assumed responsibility for market supervision on 1 August 2010, investigations formally commenced for 26 of these matters within 30 days of detection, making a total of 54 out of 75 investigations that were commenced within 60 days of detection.

Insider trading detection, investigation and prosecution continue to be a priority for ASIC. Six of the market matters referred to Deterrence during the latest reporting period related to insider trading. There has also been an increase in detection of breaches of the market integrity rules, with these accounting for nine of 23 referrals to Deterrence. The key market integrity rule issues relate to trading that has the potential to create false and misleading appearances, and the appropriateness of controls relating to automated order processing. Details and commentary on investigation outcomes, for the period 1 January 2010 to 31 December 2011, are contained in Section D of this report.

We continue to see trading activity that points to the potential misuse of confidential information by persons employed by companies that provide advice on mergers and acquisitions and other significant corporate transactions. This includes individuals employed by organisations such as investment banks, consultancy firms and other firms that are privy to confidential information before transactions are publicly announced. During the reporting period, we visited two major accounting firms to raise our concerns regarding segregation of confidential information within their firms. We will continue to actively monitor, and vigorously pursue, any possible misconduct of this type, and encourage firms to ensure the security of information in their possession.

We continue to identify problematic algorithms, but the reduction in numbers shows a promising trend. We are working with market participants to ensure retail client orders for exchange-traded funds (ETFs) are appropriately priced. We continue to identify instances where index ETF orders were placed well away from the value implied by the underlying index. Importantly, this engagement with market participants does not replace Deterrence action. If it is warranted, we will take enforcement action against a participant whose system or actions interfere with market integrity.

Main issues: Remedial and pre-emptive action

Table 2 summarises the remedial and pre-emptive action between 1 July and 31 December 2011, and includes the data for the first 11 months of supervision undertaken by ASIC from 1 August 2010 to 30 June 2011.

Table 2: Remedial and pre-emptive action

Outcomes	Previous periods		Current period
	1 Aug–31 Dec 2010	1 Jan–30 June 2011	1 July–31 Dec 2011
Pre-emptive action (guidance to prevent potential misconduct)	14	22	21
Remediation (agreed compliance actions)	8	13	11

The main issues for each type of outcome were:

- for pre-emptive action—order execution anomalies and filter issues associated with automated order processing; and
- for remediation—unauthorised discretionary trading services, non-compliance with the Corporations Act requirements relating to client money, concerns about advertising (particularly by indirect market participants) that is likely to mislead clients, inadequate supervision of advisers by participants, and inadequate monitoring of securities trading by participants.

In our market participant surveillance, which includes both direct and indirect market participants, we continue to focus on the adequacy of supervision of advisers trading for clients, potential misleading advertising, compliance with the financial obligations of the market integrity rules—such as liquidity ratios—and compliance with market integrity rules for best execution. We continue to monitor whether participants are identifying clients correctly as retail clients, and as a result meeting the appropriate level of disclosure and ‘know your client’ requirements that apply.

Advertising of concern involving indirect market participants, which we have found and the participant has withdrawn at our request or we are reviewing, include using the term stockbroker when the AFS licence holder is not authorised to do so, making specific claims of significant percentage returns from the past performance of investments recommended which were not able to be substantiated and claiming to hold an AFS licence when this is not the case.

B Market surveillance and supervision

This section provides details of our real-time market surveillance and supervision activity, preliminary and formal enquiries, and pre-emptive supervision action for the period 1 July to 31 December 2011.

Real-time surveillance of Australia's licensed financial markets

ASIC's Market Surveillance team uses the SMARTS trade surveillance system, internally developed market monitoring tools, and information provided by the market and other ASIC stakeholder groups to identify possible market misconduct matters.

Trade surveillance alerts are indicators of unusual trading activity. During the reporting period, there were 20,029 alerts compared to 23,494 alerts generated during the previous reporting period: see Table 3. The number of alerts is affected by a range of factors, including general market volatility, the level of corporate transactions and trading conditions generally.

In the current period, the Market Surveillance team has continued to review alert parameters in order to reduce the number of alerts generated resulting in 'false positives' that do not require any follow-up. The aim is to reduce the number of alerts that are clearly able to be explained by normal market activity. The Market Surveillance team is continuing to calibrate and refine alert parameters to better identify market anomalies. Despite the reduction in alerts, the number of cases that require further enquiry is consistent with previous reporting periods. This is indicative of more targeted alerts and the generation of fewer 'false positives', as a result of this continual review process.

Table 3: Trade surveillance alerts, preliminary enquiries and referrals to Deterrence team

Surveillance activity	Previous periods		Current period
	1 Aug–31 Dec 2010	1 Jan–30 June 2011	1 July–31 Dec 2011
Total number of alerts	28,512	23,494	20,029
Markets enquiries conducted	91	121	131*
Referrals to Deterrence team	17	35	23

* There has been a marginal increase in this figure, reflecting that it now includes those matters which were referred to as 'formal enquiries' in previous ASIC supervision reports.

Markets enquiries

Enquiries are conducted where our market surveillance analysts are not able to explain an alert or a series of alerts by reference to available market information, including media, internet chat sites, broker research and dialogue with brokers. Enquiries now also incorporate those matters previously referred to as ‘formal enquiries’—where the Market Surveillance team uses the compulsory powers available to ASIC to obtain evidence of market misconduct, which may result in a referral to Deterrence for formal investigation. In previous reports, preliminary and formal enquiries were listed separately.

We have used our compulsory powers to obtain information from participants, clients, listed entities, and corporate and other advisers. There were 131 markets enquiries undertaken during this reporting period, compared with 148 markets enquiries in the previous period: see Table 4.

The number of potential miscellaneous market offences has increased, reflecting an increased focus on ensuring compliance by market participants with market integrity rules. While the number of continuous disclosure enquiries has fallen, we continue to work closely with ASX in identifying possible breaches and investigating subsequent suspected breaches of the continuous disclosure requirements.

Table 4: Markets enquiries

Alleged offence	Previous periods		Current period
	Number of enquiries* (1 Aug–31 Dec 2010)	Number of enquiries* (1 Jan–30 June 2011)	Number of enquiries (1 July–31 Dec 2011)
Insider trading	80	81	74
Market manipulation	23	33	25
Continuous disclosure	15 [†]	25 [‡]	10 [#]
Miscellaneous market offences	13	9	22
Total	131	148	131

* Previous ASIC supervision reports separated enquiries into ‘preliminary’ and ‘final’. However, as ASIC’s Surveillance and Analysis teams have now merged, the data has been combined.

[†] Seven enquiries were commenced during the period as a result of continuous disclosure referrals from ASX.

[‡] Nine enquiries were commenced during the period as a result of continuous disclosure referrals from ASX.

[#] Five enquiries were commenced during the period as a result of continuous disclosure referrals from ASX.

The time taken to get matters identified as suspicious referred to Deterrence for investigation continues to be less than the time that was taken before ASIC’s commencement of market supervision. In total, from 1 August 2010 to 31 December 2011, 26 of 75 referrals were made to ASIC Deterrence within 30 days of identifying the possible misconduct, making a total of 54 out of 75 referrals that were made in less than 60 days: see Table 5.

Previously, this process (which involved a referral from ASX Surveillance to ASIC for assessment before investigation) took considerably longer. In more serious matters identified by the Market Surveillance team, we continue to bring Deterrence into the process earlier to expedite investigation. In one recent matter, Market Surveillance identified possible insider trading in mid-January 2011 and, by involving Deterrence at a very early stage, charges were laid on 29 June 2011. The trader was ultimately sentenced on 14 December 2011: see Media Release ([11-299MR](#)) *Former Sydney executive sentenced for insider trading* (14 December 2011).

In another matter, a trader purchased securities on 27 April 2011, just two days before a takeover announcement. Suspicious trading before the announcement was identified by Surveillance as part of its real-time and post-announcement analysis. A formal investigation was commenced by Deterrence on 31 May 2011. Deterrence took just seven months to lay charges of trading with possession of inside information and passing on inside information. The trader pleaded guilty to an insider trading charge on 20 December 2011, less than eight months after the offence was committed. On 13 January 2012, the indictments to the insider trading charges were presented to the court, and the trader admitted to a second related insider trading offence, and will appear for sentencing on 16 March 2012: see ASIC Advisory ([11-309AD](#)) *Sydney pair plead guilty to ASIC insider trading charges* (20 December 2011).

While insider trading and market integrity rule breaches remain a clear focus, we have also referred five matters relating to possible market manipulation breaches to Deterrence for investigation in this reporting period.

Table 5: Market matters referred to Deterrence for investigation

Alleged offence	Previous periods		Current period
	1 Aug–31 Dec 2010	1 Jan–30 June 2011	1 July–31 Dec 2011
Insider trading	10	17	6
Market manipulation	1	6	5
Continuous disclosure	2	2	3
Breach of market integrity rules	4	10	9
Total	17	35	23

Pre-emptive supervision action

One of our objectives is to change behaviour by providing guidance before misconduct occurs. An important part of our supervisory role is to prevent disorderly markets and market misconduct through active dialogue with market participants. Table 6 summarises the instances where our discussions with participants have led them to amend order execution methods and to review their trading algorithms. This proactive role is essential in improving participant conduct and preventing potentially serious misconduct, and complements our deterrence role in relation to more serious misconduct.

While issues with exchange-traded funds (ETFs) remain, their frequency is falling. However, surveillance continues to identify instances where an ETF trades at a price significantly above or below the underlying index. In response, several market participants have put in place new filters and processes to ensure that these orders, which are usually initiated by online retail clients, are reviewed by a designated trading representative (DTR) before being released to the market.

Table 6: Pre-emptive supervision action

Pre-emptive action relating to:	Previous periods		Current period
	1 Aug–31 Dec 2010	1 Jan–30 June 2011	1 July–31 Dec 2011
Execution strategy	3	7	10
Algorithmic trading and filter issues*	10	14	7
Miscellaneous	1	1	4
Total	14	22	21

* We have amended this category in the current period to include filter issues associated with algorithmic trading.

We encourage market participants to raise any trading issues or concerns at an early stage. The Market Surveillance team may be contacted via the hotline and the markets email address:

Hotline: 1300 029 454

Email: markets@asic.gov.au

C Supervision of market participants

This section summarises our market participant supervision activity from 1 July to 31 December 2011.

Participant compliance activity

Table 7 details market participant compliance activity. In addition to the assessments identified in Table 7, during the reporting period a number of reactive reviews⁵ were commenced, several were completed and some are ongoing. Issues identified in the reviews completed to date were largely resolved with the participants rectifying the areas of concern and putting in place agreed remediation plans. Such plans have included changes to compliance structures, processes and procedures. Some participants have undertaken to cease offering discretionary account services, cease offering certain financial products to clients and improve supervision of representatives. The implementation of the agreed remediation plans is monitored by ASIC's Participant Compliance team.

Risk-based assessments continue, particularly around the introduction of competition with the launch of Chi-X on 31 October 2011. Discussions with industry were conducted through workshops on best execution and Consultation Paper 168 *Australian equity market structure: Further proposals* (CP 168). We conducted a significant number of reviews in conjunction with the commencement of trading by Chi-X.

Table 8 highlights that 59 automated order processing certifications were received between 1 July and 31 December 2011. This increase from the previous two reporting periods of 23 and 59, respectively, is due to the introduction of competition on 31 October 2011. The large increase in applications and notifications to ASIC for the period included the renewal of accredited derivatives advisers and the updating of management structures. In accordance with the market integrity rules, market participants must submit management structures when there has been a material change.

⁵ A reactive review is action taken in response to matters or potential misconduct being brought to our attention (e.g. by complaint and breach report).

Table 7: Participant compliance—Key activity summary

Compliance activity	Previous periods						Current period			
	1 Aug–31 Dec 2010			1 Jan–30 June 2011			1 July–31 Dec 2011			
	Outstanding at 1 Aug 2010 [†]	New	Completed	Outstanding at 1 Jan 2011	New	Completed	Outstanding at 30 June 2011	New	Completed	Outstanding at 31 Dec 2011
Surveillance (includes business-as-usual equities and futures participants, reactive, proactive and targeted)	14	65	39	40	85	61	64	72	77	59
Monitoring and remediation	9	9	6	12	8	6	14	5	14	5
Risk-based assessment visits	6	15	10	11	47	38	20	41	61	0
Industry presentations	–	2	2	–	2	2	–	5	5	–

* Matters 'outstanding at 30 June 2011' represent the opening balance at the beginning of the reporting period (i.e. matters 'outstanding at 1 January 2011') plus 'new' matters less 'completed' matters.

[†] Before the transfer of market supervision, ASIC supervised compliance by market participants with their obligations under the Corporations Act and their AFS licence conditions. Following the transfer, ASIC also supervises compliance with ASIC market integrity rules.

Table 8: Participant compliance applications, waivers, notifications and exemptions

Applications, waivers, notifications and exemptions	Previous periods						Current period			
	1 Aug–31 Dec 2010			1 Jan–30 Jun 2011			1 July–31 Dec 2011			
	Outstanding at 1 Aug 2010*	New	Completed	Outstanding at 1 Jan 2011	New	Completed	Outstanding at 30 June 2011 [†]	New	Completed	Outstanding at 31 Dec 2011
Applications [‡]	0	132	128	4	232	234	2	245	243	4
Waivers requested (ASX) [#]	0	3	2	1	1	1	1	3	4	0
Waivers requested (ASX 24) [#]	0	6	5	1	5	5	1	7	6	2
Waivers requested (Chi-X)**	–	–	–	–	–	–	–	1	1	0
Relief applications [#]	1	14	9	6	11	11	6	14	15	5
Automated order processing (AOP) certifications received (includes significant changes)	0	23	23	0	30	29	1	59	57	3
Notifications (includes professional indemnity insurance, responsible executive changes and accredited derivatives adviser (ADA) withdrawals)	0	251	166	85	181	258	8	385	385	8

* Before the transfer of market supervision, ASIC supervised compliance by market participants with their obligations under the Corporations Act and their AFS licence conditions. Following the transfer, ASIC also supervises compliance with the ASIC market integrity rules.

[†] Applications, waivers, notifications and exemptions 'outstanding at 30 June 2011' represent the opening balance at the beginning of the reporting period (i.e. 'outstanding at 1 January 2011') plus 'new' applications, waivers, notifications and exemptions matters less 'completed' applications, waivers, notifications and exemptions.

[‡] This includes ADA accreditation, reaccreditation, exemptions and business connections consents.

[#] Waivers relate to ASIC market integrity rules and relief applications relate to the Corporations Act.

** The Chi-X Australia market commenced operations on 31 October 2011.

Referrals and complaints about participants

In addition to the work undertaken by the Market Participants teams (as outlined above), the teams also receive and review referrals from Misconduct and Breach Reporting, which receives complaints or questions from the public. The following specific referrals were reviewed between 1 July and 31 December 2011:

- six complaints made by the public about indirect market participants and market participants;
- six Corporations Act breaches that were self-reported by market participants; and
- four market integrity rule breaches that were self-reported by market participants.

Between 1 July and 31 December 2011, the Market Participants teams reviewed six market integrity rule notifications that were made about trust account deficiencies.

Enforcement referrals

The teams are continuing to focus on key areas such as market integrity rule compliance, unauthorised discretionary trading, managed discretionary accounts, compliance monitoring and adequacy of management supervision. Table 9 lists the market participant matters referred to Deterrence.

Table 9: Market participant matters referred to Deterrence for investigation

Alleged offence	Previous periods		Current period
	1 Aug–31 Dec 2010	1 Jan–30 Jun 2011	1 July–31 Dec 2011
Adviser: unauthorised trading	2	1	–
Licensee solvency	1	–	–
Breach of market integrity rule:			–
• order records	1	–	1
• adviser accreditation	–	1	–
• clients' segregated accounts	–	2	–
• no responsible executive	–	–	1
Supervision of representatives	–	3	–
Participant: Corporations Act misconduct	–	1	–
Misleading and deceptive conduct	–	–	1
Inappropriate advice	–	–	1
Total	4	8	4

Work on unauthorised discretionary trading and protection of clients' money remains a high priority for the Market Participants teams. The Market Participants teams may be contacted via the hotline and the Market Participants email address:

Hotline: 1300 029 454

Email: market.participants@asic.gov.au

D Markets-related enforcement outcomes

This section provides a summary of ASIC's markets-related deterrence outcomes from 1 January 2010 to 31 December 2011 and provides a comparison against the two years ending 30 June 2011. Given the time taken to identify and investigate cases, the two-year reporting period provides a better trend indication of our deterrence outcomes.

Investigation and deterrence outcomes

Table 10 details significant market integrity-related outcomes for the period 1 January 2010 to 31 December 2011 compared to the preceding two-year period ending 30 June 2011.

Table 10: Investigation and deterrence outcomes

Significant market integrity-related outcomes	1 July 2009– 30 June 2011	1 January 2010– 31 December 2011
Bannings	10	2
Insider trading verdicts and judgements	7	10
Continuous disclosure infringement notices	3	3
Other sanctions (enforceable undertakings and pecuniary penalties)	3	4
Market manipulation verdicts and judgements	6	5
Total	29	24

Details of the 24 outcomes in Table 10 can be summarised as follows:

- *Bannings*: Two advisers were banned from providing financial services for three and five years, respectively.
- *Insider trading verdicts and judgements*: These include individuals who have pleaded guilty to insider trading where sentences have not yet been handed down (two matters), and sentences of up to four years and six months imprisonment.
- *Continuous disclosure infringement notices*: Three infringement notices were issued, two for \$33,000 and one for \$66,000.

- *Other sanctions:* A pecuniary penalty was imposed for misleading and deceptive conduct by a director; there was an enforceable undertaking requiring a company to engage an independent external consultant to review its financial reporting and disclosure systems; and two infringement notice penalties were issued by the Markets Disciplinary Panel, one for \$25,000 and one for \$30,000.
- *Market manipulation verdicts and judgements:* The outcomes included pecuniary penalties up to \$80,000 and jail sentences for up to 22 months upon being found guilty of market manipulation by the court.

Enforcement outcomes

For the six-month period 1 July 2011 to 31 December 2011, the following enforcement outcomes were reached:

- Mr Justin O'Brien, a former Director of Business Development of the strategic shareholder consulting services company, Georgeson, was found guilty of engaging in insider trading, and was sentenced to two years imprisonment by way of an intensive correction order: see [11-299MR](#);
- Ms Elisa Rietbergen, formerly a Relationship Services Associate with JP Morgan Chase Bank N.A and Mr Joseph Levi, of Surry Hills, NSW, each pleaded guilty to an insider trading charge: see [11-309AD](#);
- Mr Nicholas Glynatsis, a former PricewaterhouseCoopers senior consultant, pleaded guilty to nine charges of insider trading: see ASIC Advisory ([11-302AD](#)) *NSW tax consultant pleads guilty to insider trading* (15 December 2011);
- Mr Hoong Kee Tang, a former director of Wintech Group Limited, was convicted on four counts of market manipulation and one count of making false or misleading statements to ASIC, and was fined a total of \$10,000: see Media Release ([11-286MR](#)) *Former company director convicted of market manipulation* (9 December 2011);
- Austock Securities Limited paid a penalty of \$30,000 in order to comply with an infringement notice for contravening market integrity rule 5.9.1 of the ASIC Market Integrity Rules (ASX Market) 2010: see ASIC Advisory ([11-291AD](#)) *Austock pays \$30,000 infringement notice penalty* (12 December 2011);
- Patersons Securities Limited paid a penalty of \$25,000 in order to comply with an infringement notice for contravening market integrity rule 6.6.1 of the ASIC Market Integrity Rules (ASX Market) 2010: see ASIC Advisory ([11-216AD](#)) *Patersons pays \$25,000 infringement notice penalty* (30 September 2011); and
- Nexbis Limited paid a \$33,000 penalty after ASIC issued an infringement notice for its contravention of the continuous disclosure obligation in s674(2) of the Corporations Act: see ASIC Advisory ([11-168AD](#)) *Nexbis Limited pays \$33,000 continuous disclosure penalty* (12 August 2011).

Key terms

Term	Meaning in this document
ADA	Accredited derivatives adviser
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
algorithm/algorithmic trading	Electronic trading activity where specific execution outcomes are delivered by predetermined parameters, rules and conditions
AOP (automated order processing)	The process by which orders are registered in a market participant's system, which connects it to a market. Client or principal orders are submitted to an order book without being manually keyed in by an individual (referred to in the rules as a DTR). It is through AOP systems that algorithmic programs access our markets
ASIC	Australian Securities and Investments Commission
ASX	ASX Limited (ACN 008 624 691) or the exchange market operated by ASX Limited
ASX 24	The exchange market formerly known as Sydney Futures Exchange (SFE), operated by Australian Securities Exchange Limited
Australian domestic licensed financial market	A financial market licensed under s795B(1) of the Corporations Act
Australian market licence	Australian market licence under s795B of the Corporations Act that authorises a person to operate a financial market
Chi-X	Chi-X Australia Pty Ltd (ACN 129 584 667) or the exchange market operated by Chi-X Australia Pty Ltd
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
DTR (designated trading representative)	A representative of the market participant that has been authorised by the participant to submit trading messages to the trading platform on behalf of the participant

Term	Meaning in this document
enforceable undertaking	An enforceable undertaking that may be accepted by ASIC under reg 7.2A.01 of the Corporations Regulations
equity market	The market in which shares are issued and traded, either through exchange markets or over-the-counter (OTC) markets
equity market products	Shares, managed investment schemes, the right to acquire by way of issue shares and managed investment schemes, and CHESS Depository Interests (CDIs) admitted to quotation on ASX
financial market	As defined in s767A of the Corporations Act. It encompasses facilities through which offers to acquire or dispose of financial products are regularly made or accepted
indirect market participant	A broker that is not itself a market participant, but that accesses the market through a market participant
infringement notice	An infringement notice issued under reg 7.2A.04 of the Corporations Regulations
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
market licence	An Australian market licence
market manipulation	As defined in Pt 7.10 of the Corporations Act
market operator	A holder of an Australian market licence that is the operator of a financial market on which equity market products are quoted
market participant	An entity that is a participant of a financial market on which equity market products are quoted
MDP (Markets Disciplinary Panel)	ASIC's Markets Disciplinary Panel, through which ASIC exercises its power to issue infringement notices and to accept enforceable undertakings in relation to breaches of the market integrity rules
REP 227	An ASIC report (in this example, numbered 227)
surveillance	Refers to the process of gathering and analysing particular information on a particular market participant or other relevant entity. ASIC conducts surveillance to assess and enforce compliance with financial services laws and ASIC market integrity rules to produce constructive change by all market participants and to promote public confidence in Australia's financial markets and its participants