

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer

Corporations Act 2001

Treasury Laws Amendment (Transition of Chi-X to National Guarantee Fund) Regulations 2019

Part 7.5 of the *Corporations Act 2001* (the Act) establishes the requirement for each licensed financial services market to have a compensation regime. If the market is a member of the Securities Exchange Guarantee Corporation (SEGC), then it is covered by the National Guarantee Fund (NGF).

Section 891B of the Act provides that regulations may make provisions of a transitional nature in relation to a market that joins the SEGC (from the compensation regime previously applicable to it, to the arrangements constituted in respect of the NGF).

The purpose of the *Treasury Laws Amendment (Transition of Chi-X to National Guarantee Fund) Regulations 2019* (the Amendment Regulations) is to amend the *Corporations Regulations 2001* (the Corporations Regulations) to facilitate Chi-X's transition to the NGF.

Currently, there is only one market covered by the NGF, being the Australian Securities Exchange (ASX). Chi-X has applied to become a member of the SEGC. At such time that Chi-X becomes a member of the SEGC, Chi-X will also be covered by the NGF.

Schedule 1 to the Amendment Regulations clarifies the situations in which compensation may be claimed for a loss connected with Chi-X (or its subsidiary), where it is not connected with any other market covered by the NGF (namely, the ASX). It does this by specifying the transitional conditions that must be met in order to make a claim under the relevant heads of claim for the NGF set out in Division 4 of Part 7.5 of the Corporations Regulations.

Details of the Amendment Regulations are set out in the [Attachment](#).

The Act does not specify any conditions that need to be satisfied before the power to make the proposed Regulations may be exercised.

The Amendment Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Regulations commence on the day after it is registered on the Federal Register of Legislation.

ATTACHMENT

Details of the *Treasury Laws Amendment (Transition of Chi-X to National Guarantee Fund) Regulations 2019*

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Treasury Laws Amendment (Transition of Chi-X to National Guarantee Fund) Regulations 2019* (the Amendment Regulations).

Section 2 – Commencement

Schedule 1 to the Amendment Regulations commences the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Amendment Regulations are made under the *Corporations Act 2001* (the Act).

Section 4 – Schedule

Schedule 1 – Amendments

Schedule 1 to the Amendment Regulations amends the *Corporations Regulations 2001* (the Corporations Regulations) to support the transition of Chi-X Australia Pty Ltd (Chi-X) to the compensation arrangements under the National Guarantee Fund (NGF), subject to approval by the Securities Exchange Guarantee Corporation (SEGC). At such time that Chi-X becomes a member of the SEGC, Chi-X will be covered by the NGF.

Schedule 1 to the Amendment Regulations sets out the transitional conditions for compensation to be claimed for a loss connected with Chi-X (and not connected with any other market covered by the NGF) under the relevant heads of claim for the NGF.

Item 1 – Transitional provision for joining of Chi-X

Item 1 inserts new regulation 7.5.85A into Division 4 of the Corporations Regulations (about the NGF), at the end of Subdivision 4.11 (about other provisions relating to compensation).

Item 1 provides that the Amendment Regulations are made for the purposes of section 891B of the Act, being the provision of the Act that sets out the power to make regulations of a transitional nature in relation to a joining market from the compensation arrangements previously applicable to it, to the compensation arrangements under the NGF.

Item 1 also provides that the Amendment Regulations apply to a financial market that is a 'joining market' (as defined in subsection 891B(1)) if both of the following conditions are satisfied:

- first, the financial market is operated by Chi-X or a subsidiary of Chi-X; and
- second, the joining day (being the date on which Chi-X becomes a member of the SEGC) is on or after the date of commencement of the proposed Regulations.

The date on which Chi-X becomes a member of the SEGC will be published on the SEGC's website.

Item 1 specifies that compensation is only claimable under the relevant heads of claim for the NGF in respect of a loss:

- connected with Chi-X (or a subsidiary of Chi-X); and
- not connected with any other financial market covered by the NGF,

if the transitional condition for that head of claim is met.

The transitional conditions are as follows:

- for the heads of claim in relation to contract guarantees (being regulations 7.5.24 to 7.5.27), the prescribed period for the relevant reportable transaction must end on or after the joining day;
- for the heads of claim in relation to unauthorised transfers (being regulations 7.5.54 and 7.5.55, the unauthorised execution must have occurred on or after the joining day; and
- for the heads of claim in respect of insolvent participants (being regulation 7.5.64), the dealer must have become insolvent on or after the joining day.

These transitional conditions do not affect the current operation of the NGF, prior to the commencement of the Amendment Regulations. In particular, the transitional conditions do not affect claims that are currently covered by the NGF – such as claims that are connected to ASX and claims that are connected to both the ASX and Chi-X.