

ASX Cash Equities Clearing and Settlement Code of Practice – Access Protocols

9 October 2020 |

ASX's Cash Equities Code of Practice for Clearing and Settlement Settlement of Cash Equities in Australia came into effect. These protocols describe:

- **target timeframes** for ASX Clear and ASX Settlement responding to requests from AMOs and ALMOs seeking standard access to clearing and settlement services in accordance with clause 4.3(c) of the Code of Practice; and
- the dispute resolution processes regarding **pre-access disputes** as defined in clause 4.4(b)(1) of the Code of Practice.

The dispute resolution processes regarding **post-access disputes** are in the TAS Legal Terms and the Settlement Facilitation Service Agreement.

The terms used in these protocols have the same meaning as set out in the Code of Practice.

Access requests – target timeframes

1. ASX Clear and ASX Settlement have published procedures for applicants seeking standard access to clearing and settlement arrangements. The procedures for unaffiliated AMOs are available on this [page](#). The procedures for unaffiliated ALMOs are available on this [page](#).
2. All new enquiries for access will be responded to **within 3 business days**.
3. Upon receipt of a complete and valid application, ASX Clear and ASX Settlement will consider the request for standard access and respond to the applicant **within 15 business days**. Consideration of applications involving a clearing assessment of individual financial products listed on the unaffiliated AMO will take a further 40 business days from the receipt of all information required to undertake the assessment.
4. ASX Clear and ASX Settlement may notify the applicant in writing prior to the expiry of the **15 business day period** if an extension in time is required for ASX Clear and ASX Settlement to make an access decision. ASX Clear and ASX Settlement may notify the applicant of an extension of up to 15 business days.
5. ASX Clear and ASX Settlement will provide a written response to all applications for access to clearing and settlement services.

Dispute Resolution – pre-access disputes

6. If an AMO or ALMO objects to a decision of ASX Clear or ASX Settlement in respect of a request for standard access to clearing and settlement services, the AMO or ALMO may deliver to ASX Clear or ASX Settlement a written notice which identifies a dispute under this protocol (**Notice of Dispute**).

7. A Notice of Dispute should be delivered to:
Address Exchange Centre, 20 Bridge Street, Sydney, New South Wales, 2000
Attention Company Secretary
Fax +61 2 9227 0480
Email co.secretariat@asx.com.au
8. Following receipt of the Notice of Dispute, the parties must negotiate in good faith to resolve the dispute.
9. If after 30 days, following receipt of the Notice of Dispute, the dispute has not been resolved, either party may refer the dispute to binding arbitration by a single arbitrator by written notice to the other party (**Arbitration Notice**).
10. The arbitrator must be a person agreed by the parties. However, if the parties fail to agree on the arbitrator within 14 days after the Arbitration Notice was delivered, the arbitrator will be the person nominated, at the request of either party, by the President of the Institute of Arbitrators & Mediators Australia or his or her nominee.
11. The rules published in 2007 by the Institute of Arbitrators & Mediators Australia entitled the IAMA Arbitration Rules, as amended from time to time, will govern the conduct of any arbitration conducted under this protocol.
12. The arbitrator must have regard to and take into account as fundamental elements the following matters in resolving the dispute:
13. the purpose of the Code of Practice;
14. the legitimate business interests of ASX Clear and ASX Settlement;
15. the statutory and licence obligations of ASX Clear and ASX Settlement under the Corporations Act; and
16. the interests of other users of clearing and settlement services.
17. The arbitrator can only make a decision about the matters in dispute and whether or not a standard access service should be provided to the AMO or ALMO in accordance with published standard terms and conditions and prices.
18. For clarity, the arbitrator cannot make any decision which has the effect of varying:
19. the standard access service which is made available under the TAS Legal Terms or the Settlement Facilitation Service Agreement as applicable; or
20. the published fees for those standard access services.
21. Subject to paragraph 16 an arbitration will be private and the result of the arbitration will not be published.
22. The result of an arbitration will be provided to the Agencies on condition that they keep the results confidential subject to any statutory reporting obligation.
23. The parties must bear their own costs of the arbitration, including the costs of any representatives.
24. The cost of the arbitrator and the costs of any facilities used for the arbitration shall be borne equally by both parties.