

9 May 2013

Mr Elmer Funke Kupper  
Managing Director and CEO  
ASX Limited  
20 Bridge Street  
Sydney NSW 2000

By Email To: [regulatorypolicy@asx.com.au](mailto:regulatorypolicy@asx.com.au)

Dear Mr Funke Kupper,

***Re: Draft Code of Practice for Clearing and Settlement of Cash Equities in Australia***

I refer to the draft Code of Practice released by ASX on 10 April 2013, and to our discussion with you and your senior staff at your offices on 6 May, and would like to reiterate some of the points raised, particularly in relation to greater representation of retail or mid-tier brokers on the Forum, and the role of the Business Committee.

Following on from the Government's decision in February 2013 to defer any decision on additional central counterparties for cash equities in the Australian market for 2 years, the draft Code sets out ASX's commitment to:

- establish an **advisory forum** that allows users and stakeholders to provide input to ASX (the '**Forum**');
- transparent and non-discriminatory **pricing** of clearing and settlement services; and
- transparent and non-discriminatory **terms of access** to clearing and settlement services.

## ***Role of the Forum***

At the outset, I would like to commend you for outlining your vision of the Forum as a broad communications medium for stakeholders and the Exchange. While initially the Forum's work will concentrate on the matters addressed in the Government's announcement of February 2013, it is clear that you anticipate that the Forum will eventually serve as a mechanism for discussion of a wide range of industry issues. This certainly marks a change in attitude by the Exchange which our members are pleased to see.

## ***Membership of the Forum***

I note that:

- The Forum will be convened to provide user input to the Boards of ASX Clear and ASX Settlement in respect of '...the ongoing investment in the design, operation and development of core cash equity clearing and settlement infrastructure, including CHESSE' and to also enable ASX's Boards to report on strategic plans and investment decisions; and
- The Forum will consist of a 'wide range of customers and other stakeholders' so that the interests of different users can be represented.

ASX has already canvassed and nominated representatives to participate in the Forum, and we are grateful for the nomination of the Association as one of the inaugural members.

Issues regarding the development of clearing and settlement infrastructure including CHESSE will greatly affect the entire market, including the mid-tier and retail sector, particularly given the concentration of retail clients as sponsored clients of CHESSE participants. If as foreshadowed, the breadth of issues to be considered by the Forum increases, this effect will be more greatly pronounced.

As the initial nominations to the Forum are principally drawn from the top users of ASX clearing and settlement services, the retail and mid-tier is very much under-represented. Only one proposed member (Patersons Securities) is from the traditional retail or mid-tier sector of the market. While it is true that the top ten firms dominate the market in terms of overall trading volumes and ASX revenue, the mid-tier sector represents a far greater number of clients, including the increasing number of clients building retirement savings. According to the latest *ASX Australian Share Ownership Study (2010)*, approximately 7.26 million people, or 43% of the adult Australian population, own shares, up from 6.72 million or 41% two years previously. Recent market strength and low fixed interest returns will no doubt see this trend increase.

Mid-tier and retail stockbrokers can be said to be the 'keepers of value' for the market. Accordingly, we would like to see **greater representation of this sector on the Forum.**

### ***Technical Expertise on the Forum***

We understand that ASX is requiring the Forum to comprise senior representatives of members, and that for consistency, delegation will require prior approval. Having senior representatives present – preferably CEOs – will ensure real commitment by the participants.

However, there will be a number of situations when the subject matter of the issues being dealt with will require input from operational or technical managers. You mentioned plans for there to be *Business Committee* meetings prior to the meetings of the Forum, at which more technical points could be discussed, possibly by technical and operational staff from the firms involved. This would certainly be supported. **The functions and role of the Business Committee should be addressed in the Code.** As it is likely that specialized discussion will take place at the Business Committee, feeding into the next Forum meetings, it is important that likewise its membership be widened to include more mid-tier or retail brokers, as these will be affected by the matters communicated from the Business Committee to the Forum.

Finally, we note that as an industry body, the Association always stands ready to facilitate discussion with the Exchange on industry issues, whether within or outside the Forum.

Thank-you once again for meeting with us recently to discuss the development of the Code and the Forum, and for making your senior staff available for that discussion. Our Members are pleased to see the efforts by the Exchange to engage with the industry. We look forward to working further with you on the development of the Code and then in the deliberations of the Forum. Please contact me if you have any queries, or if I can assist further.

Yours sincerely,



**David W Horsfield**  
**Managing Director/CEO**