

8 February 2021

ASX Limited
PO Box H224
Australia Square NSW 1215

By email to: participants.compliance@asx.com.au

Attention: Mr Bill Woods

Dear Bill,

Re: Consultation on proposed changes to ASX Clear Operating Rules, Procedures and Guidance Note regarding trust and client segregated accounts (“Consultation”)

We refer to the Consultation issued by ASX dated 30 November 2020 and provide our feedback on the questions raised.

We note that we are broadly supportive of ASX strengthening the client money framework but make the following comments.

Reconciliation – client trust balances to be checked at a “nominated time”

We note that ASX is aiming to ensure consistency in mandating participants to specify a nominated time for checking client trust account balances. We consider the actual time requires some flexibility in that it will depend on a number of operational requirements within the business as to what time client balances are checked. Issues to consider include

- The impact of delayed settlement (eg in the CHESSE batch) and physical processing by the participant
- The impact of the participant’s back office vendor systems being offline / unavailable at the “nominated time”.

It is noted that running reporting (such as around client trust account balances) at a specified time is different to performing the actual reconciliation at a mandated time. We consider there needs to be some flexibility in the rules to run client trust balances, as is in place currently for the reconciliation requirements, which are required to be completed **by 7pm** the next business day. This provides enough flexibility within a relatively short time (1 business day) and otherwise allows the participant to report any issues within the current 2 business day timeframe.

As a result, we are not supportive of the inclusion of the reference to a “nominated time” for checking client trust account balances as set out in proposed amendments and in particular, ASX Clear Operation Rules 4.23.5 & 4.23.6 and the corresponding procedures. We prefer a more flexible approach to the relevant time, such as that which applies to the timing of completing trust account reconciliations.

Daily reconciliation of individual client trust account balances

We are supportive of the recommendation in ASX Operating Rule 4.23.6 to perform a daily reconciliation of individual client trust account balances, noting that we currently complete a daily review as part of our client settlements processes.

We note our earlier comments about the nominated time for client balances set out in the Consultation relating to this rule.

Policies and procedures

We are supportive of a requirement to maintain policies and procedures in respect of trust accounts (recommendation in ASX Operating Rule 4.23.8).

Obligation to notify ASX Clear in respect of client money

We are supportive of the recommendations in ASX Operating Rule Procedure 4.23.7 to be able to lodge notifications to ASX via ASX Online, but note that there should be an alternative method to report (eg to the participants.compliance@asx.com.au email address) in the event that ASX Online is not available (and noting the tight reporting deadlines).

Form of reconciliation

We are supportive of the addition of a new Annexure to the rules (Annexure 4.23.6) and note that we currently use this format for our reconciliations.

Amendments to ASX Clear Operating Rules – Guidance Note 12 (GN12)

We make the below comments to the amendments to GN12.

- **Sections 7 & 8:** reconciliation requirements

Please refer to our comments regarding a “nominated time” for reporting client trust account balances. We note that the amended GN12 does include the following commentary:

“The nominated time should be a time when a participant’s back office processes have been completed and no further processing is expected that might impact the client segregated account balance for the relevant business day.”

A suggestion may be to include in the updated rules, procedures, appendices and GN12 a reference to the client balances being completed at a time that is *“After the participant’s back office processes have been completed and no further processing is expected that might impact the client segregated account balance for the relevant business day and in any event by not later than 11:59 pm on the relevant business day”*. This puts the onus on the participant to ensure that the balances are run at the end of the day’s processing.

- **Section 13:** Audit requirements for trust and client segregated accounts.

The importance of the requirements relating to client monies is acknowledged.

We note that our auditors review a number of our processes including in respect of trust accounts more generally, including reviewing whether (for example) trust account breaches have been reported.

However, we do not agree with the prescriptive requirements in the proposed amendment to GN12. Participants are required to comply with the ASX Clear Operating Rules. The Consultation includes a new requirement to have documented policies and procedures (recommendation - ASX Operating Rule 4.23.8). It would be preferable to include a requirement for the participant to review the core processes for trust accounting rather than to mandate a prescriptive audit requirement .

Summary

As noted, we are broadly supportive of ASX strengthening the client money framework, but note that there are some practical issues with implementation of a “nominated time” for client account balances. We also consider the audit requirements set out in the update to GN12 to be too prescriptive and would prefer the approach that requires participants to have appropriate procedures and to review them on a regular basis.

Depending on the final form of the proposed changes, a 12 month implementation timeframe on procedures should suffice. It should be noted that where system changes are required (eg running reporting at a set time) that we will be reliant on our vendors and would need to know the final form of the recommendations before we can seek feedback from our vendors as to timing.

We would be pleased to discuss our feedback further with you.

Yours sincerely,



Melissa Nolan
Compliance Manager | Company Secretary