

**ASX Clear Pty Limited  
ASX Settlement Pty Limited**

**Legal terms for the provision of a trade acceptance service  
to Australian financial market licensees  
in respect of CHESS-eligible ASX-quoted financial products**

**Information Handling Standard:  
CHESS-eligible ASX-quoted financial products  
and CHESS-eligible non-ASX quoted financial products**

## Preamble

ASX Clear Pty Limited (ASX Clear) is the central counterparty and clearing facility for Australia's cash equity markets and provides all clearing and counterparty risk management services.

ASX Settlement Pty Limited (ASX Settlement) is the securities settlement facility for Australia's cash equity markets and provides all settlement and asset registration services.

ASX Clear and ASX Settlement each hold an Australian CS facility licence under the Corporations Act. ASX Clear and ASX Settlement are regulated by the Australian Securities and Investments Commission and the Reserve Bank of Australia.

Each of ASX Clear and ASX Settlement has established arrangements with ASX Compliance Pty Limited (ASX Compliance) for supervising their respective clearing and settlement facilities.

ASX Limited is the ultimate holding company of ASX Clear, ASX Settlement and ASX Compliance.

The functions of the Boards of ASX Limited, ASX Clear, ASX Settlement and ASX Compliance are set out in the Board Charters, which are available on the ASX website.

Under the Operating Rules of ASX Clear and ASX Settlement, an Australian market licence holder can apply to become an Approved Market Operator (AMO). ASX Limited is an AMO.

ASX Clear and ASX Settlement provide clearing and settlement arrangements which include services to AMOs and to parties to transactions in relation to CHESS-eligible ASX-quoted financial products and CHESS eligible non-ASX quoted financial products. There are two categories of service relating to these clearing and settlement arrangements:

1. a service to be provided by a CS facility licence holder to AMOs, being the acceptance of transactions effected through that AMO's trade facility for clearing and settlement in the CS facility (Trade Acceptance Service); and
2. a clearing and settlement service provided to the participants of ASX Clear and ASX Settlement, being post-trade processing of transactions in CHESS-eligible ASX-quoted financial products and CHESS-eligible non-ASX quoted financial products effected in accordance with the Operating Rules of an AMO.

ASX Clear and ASX Settlement provide a Trade Acceptance Service to AMOs under the *Legal terms for the provision of a trade acceptance service to Australian financial market licensees in respect of CHESS-eligible ASX-quoted financial products* (Legal Terms of Service). The Legal Terms of Service provide that if ASX Clear or ASX Settlement acquire actual knowledge of competitively sensitive information in the course of providing the Trade Acceptance Service, they will implement as an operational standard promulgated under the Legal Terms of Service, appropriate safeguards (to be determined in their absolute discretion) to protect that information from disclosure to ASX Limited.

This information handling standard is promulgated by ASX Clear and ASX Settlement under the Legal Terms of Service as an operational standard for the protection of confidential information (including competitively sensitive information) of AMOs which the ASX Group may acquire in connection with the provision of a Trade Acceptance Service. This information handling standard provides for, among other things, the distribution of confidential information within the ASX Group on a "needs to know" basis and for the protection of that information from disclosure to third parties. This information handling standard forms part of [ASX's Conflict Handling Arrangements](#), a summary of which is available on the ASX website.

This Preamble is provided for the assistance of the reader and does not form part of the information handling standard.

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**1. Interpretation**

Capitalised terms used in this information handling standard have the meanings given to them in clause 7 (Glossary).

**2. Purpose, scope and application**

The ASX Group recognises that AMOs may disclose AMO Confidential Information to the ASX Group:

- for the purpose of determining whether to acquire a Trade Acceptance Service from ASX Clear and ASX Settlement;
- in the course of applying for approval as an AMO under the Operating Rules of ASX Clear and ASX Settlement;
- in the course of agreeing to be bound by the Legal Terms of Service;
- in the course of acquiring a Trade Acceptance Service; or
- in seeking to reach an agreement with ASX Clear and ASX Settlement to expand or enhance a Trade Acceptance Service.

**The ASX Group does not require an AMO to disclose AMO Confidential Information to the ASX Group for any of the purposes or in any of the instances listed above.**

The purpose of this information handling standard is to establish a transparent framework for handling confidential information disclosed to the ASX Group by AMOs in connection with the provision of a Trade Acceptance Service.

The ASX Group recognises that certain AMO Confidential Information may also be AMO Conflict Sensitive Information.

In relation to AMO Conflict Sensitive Information, this information handling standard seeks to balance:

- the need to ensure that the potential for conflicts on the part of ASX Group Directors or ASX Group Employees, resulting from the receipt of AMO Conflict Sensitive Information, is appropriately managed; and
- the need to ensure that ASX Clear and ASX Settlement continue to comply with their respective statutory obligations as CS facility licensees.

The statutory obligations referred to above include but are not limited to:

- the governance requirements applicable to ASX Clear under the Financial Stability Standard for Central Counterparties<sup>1</sup> and the governance requirements applicable to ASX Settlement under the Financial Stability

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<sup>1</sup> The Financial Stability Standard for Central Counterparties are available [here](#).

Standards for Securities Settlement Facilities<sup>2</sup>. In particular, this information handling standard seeks to ensure that restrictions on the flow of information do not adversely affect:

- the ability of the Boards of ASX Clear and ASX Settlement to continue to provide oversight of the operations of the clearing and settlement facilities; or
- the risk-control functions of ASX Clear and ASX Settlement's clearing and settlement facilities; and
- the obligation of a CS facility licensee under section 821A(c) of the Act to have adequate arrangements for supervising its clearing and settlement facility.

This information handling standard applies to the provision by AMOs of AMO Confidential Information (including AMO Conflict Sensitive Information) to the ASX Group in connection with the provision of a Trade Acceptance Service and the protection and use of that information by the ASX Group.

### **3. Commencement**

This information handling standard takes effect on the date specified by ASX Clear and ASX Settlement.

### **4. Protection of AMO Confidential Information**

The ASX Group will use the same degree of care (but no less than a reasonable degree of care) to prevent AMO Confidential Information being disclosed to third parties as the ASX Group uses to protect its own confidential information of a similar nature.

The ASX Group will not store, process, use or disclose AMO Confidential Information except:

- to provide a Trade Acceptance Service to the AMO, to provide clearing and settlement services to participants of the CS Entities and to comply with the CS Entities' license;
- if required by law or by any order or notice of a court, tribunal, authority or regulatory body including in relation to the supervision of a financial market or clearing and settlement facility (as defined under the Act), provided that the ASX Group shall use reasonable endeavours to notify the AMO of the information to be disclosed (and of the circumstances in which the disclosure is alleged to be required) before such disclosure must be made; or
- with the written approval of the AMO.

### **5. Submission and screening of AMO Conflict Sensitive Information**

An AMO which seeks to share AMO Conflict Sensitive Information with any member of the ASX Group in connection with the provision of a Trade Acceptance Service should provide the information in writing to the General Manager, Enterprise Compliance by emailing [anatoly.kirievsky@asx.com.au](mailto:anatoly.kirievsky@asx.com.au). AMO Conflict Sensitive Information should not be provided to any ASX Group Director or any ASX Group Employee or be provided by any other means. This applies irrespective of:

- whether the document containing the AMO Conflict Sensitive Information also contains other information;
- whether an ASX Group Employee (other than the General Manager, Regulatory Assurance) has asked for the information, or the AMO considers that the ASX Group requires the information, in connection with the provision of a Trade Acceptance Service;

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<sup>2</sup> The Financial Stability Standards for Securities Settlement Facilities are available [here](#).

- the specific purpose for which the AMO seeks to share the information with the ASX Group.

Any AMO Conflict Sensitive Information which an AMO provides to the General Manager, Enterprise Compliance should be clearly marked as “AMO Conflict Sensitive Information” and accompanied by a statement of:

- the purpose for which the information is being provided to the ASX Group; and
- the ASX Group Employees to whom the AMO wishes the information to be provided.

The ASX Group takes no responsibility for the unauthorised use or distribution of AMO Conflict Sensitive Information which is submitted to the ASX Group otherwise than in accordance with this information handling standard.

The General Manager, Enterprise Compliance will screen all information submitted to him or her in accordance with this clause 5 to confirm that the information is AMO Conflict Sensitive Information. If the General Manager, Enterprise Compliance determines that the information is not AMO Conflict Sensitive Information, he or she will

- treat the information as confidential;
- advise the AMO that it has been determined that the information is not AMO Conflict Sensitive Information; and
- take no further action in relation to the information other than to return the information to the AMO in accordance with the instructions from the AMO.

If the General Manager, Enterprise Compliance determines that the information is AMO Conflict Sensitive Information, he or she will distribute it in accordance with clause 6 (Distribution and use of AMO Conflict Sensitive Information).

## **6. Distribution and use of AMO Conflict Sensitive Information**

If the General Manager, Enterprise Compliance determines that information submitted to him or her in accordance with clause 5 (Submission and screening of AMO Conflict Sensitive Information) is AMO Conflict Sensitive Information, he or she will distribute it as follows:

### *ASX Group Employees*

AMO Conflict Sensitive Information will be distributed only to those ASX Group Employees:

- to whom the AMO has requested or approved the General Manager, Enterprise Compliance to provide the information;
- who require the information in connection with the provision or potential provision of a Trade Acceptance Service to the AMO, as determined by the General Manager, Enterprise Compliance in consultation with the ASX Office of General Counsel; or
- who require the information in the ordinary course of performing their role in connection with the discharge of regulatory obligations of the ASX Group (including, without limitation, ASX Group Employees who need access to AMO Conflict Sensitive Information for the purpose of preparing reports required to be given to the Australian Securities and Investments Commission or the Reserve Bank of Australia).

### *ASX Group Directors*

Subject to two exceptions, AMO Conflict Sensitive Information shall not be distributed to ASX Group Directors.

Exception 1 — AMO Conflict Sensitive Information may be distributed to the directors of ASX Clear and ASX Settlement where:

- the information is reasonably required by the directors in order for them to discharge their duties as directors and perform their responsibilities as directors of ASX Clear and/or ASX Settlement in respect of those entities' obligations as licensed CS facilities; or
- the information is relevant to the risk-control function of the clearing and settlement facilities.

Directors of ASX Clear and ASX Settlement may sit on other ASX Group Boards. Directors of ASX Clear and ASX Settlement who also sit on the ASX Limited Board will not participate in consideration of AMO Conflict Sensitive Information without the consent of the AMO. Directors of ASX Clear and ASX Settlement may not use the AMO Conflict Sensitive Information of an AMO for the purpose of operating ASX's cash equity market without the consent of that AMO.

No ASX Group Employee who is a member of ASX's Business Development function shall be present during any Board consideration of AMO Conflict Sensitive Information pursuant to this exception.

Exception 2 — AMO Conflict Sensitive Information may be distributed to the directors of ASX Compliance (including those directors who also sit on other ASX Group Boards) where the information is relevant to the supervision of ASX Clear and ASX Settlement's clearing and settlement facilities, for the purpose of discharging their duties as directors and performing their responsibilities as directors of ASX Compliance. Directors of ASX Compliance who also sit on the ASX Limited Board will not be provided with AMO Conflict Sensitive Information or participate in consideration of AMO Conflict Sensitive Information without the consent of the AMO.

Board Papers which are to be presented to the Board of ASX Clear, ASXCC, ASX Settlement, ASXSC or ASX Compliance in reliance on either of the foregoing exceptions shall:

- be submitted to the General Manager, Enterprise Compliance in draft for review prior to distribution to directors; and
- clearly state on the first page that they contain AMO Conflict Sensitive Information.

## 7. Glossary

The following definitions apply in this standard:

**Act** means the Corporations Act 2001 (Cth).

**AMO** means the holder of, or an applicant for, an Australian market licence (as defined in s. 761A of the Act) which has been approved, or which has submitted an application to be approved, as an "Approved Market Operator" for the purposes of the Operating Rules of ASX Clear and ASX Settlement.

**AMO Confidential Information** means information in any form (whether it is stored electronically or in hard copy) which is received by the ASX Group from an AMO and is confidential to the AMO, but does not include information which:

- was in the possession of the ASX Group before receipt from the AMO;
- is or becomes a matter of public knowledge through no fault of the ASX Group;
- is received by the ASX Group from a third party without a duty of confidentiality; or
- is independently developed by the ASX Group without the use of confidential information received from the AMO.

**AMO Conflict Sensitive Information** means AMO Confidential Information which:

- relates to the current or future business plans or potential initiatives, in respect of market services in Australia, of an AMO; and
- is marked by the AMO as "AMO Conflict Sensitive Information".

Information concerning a proposed change in the market operating hours of an AMO is AMO Conflict Sensitive Information.

**AMO Trading Information** means AMO Confidential Information which identifies the parties to any transaction submitted by an AMO to ASX Clear and ASX Settlement for acceptance under the Legal Terms of Service, and includes any compilation or summary of such information from which the identity of those parties can be determined. It excludes any such information, compilation or summary which is anonymised so that the parties to the transaction(s) cannot be identified.

**ASX Clear** means ASX Clear Pty Limited (ACN 001 314 503).

**ASX Compliance** means ASX Compliance Pty Limited (ACN 087 780 489).

**ASX Group** means ASX and all of its subsidiaries (as defined in the Act) from time to time.

**ASX Group Director** means any director of one or more of ASXL, ASX Compliance, ASX Clear, ASXCC, ASX Settlement and ASXSC.

**ASX Group Employee** means an employee of the ASX Group.

**ASX Settlement** means ASX Settlement Pty Limited (ACN 008 504 532).

**ASXCC** means ASX Clearing Corporation Limited (ACN 087 801 554), a wholly owned subsidiary of ASXL and the intermediate holding company of ASX Clear.

**ASX Limited** means ASX Limited (ACN 008 624 691).

**ASXSC** means ASX Settlement Corporation Limited (ACN 008 617 187), a wholly owned subsidiary of ASXL and the intermediate holding company of ASX Settlement.

**CHESS** stands for Clearing House Electronic Subregister System and has the meaning given to that term in ASX Settlement Operating Rule 2.13.1

**CS Entities** means ASX Clear and ASX Settlement.

**General Manager, Enterprise Compliance** means the ASX Group employee who from time to time holds the position of General Manager, Enterprise Compliance or any similarly designated position.

**Legal Terms of Service** means the *Legal terms for the provision of a trade acceptance service to Australian financial market licensees in respect of CHESS-eligible ASX-quoted financial products* dated 1 July 2014, as amended from time to time.

**Operating Rules** has the meaning given to that term in s. 761A of the Act.

**Trade Acceptance Service** means the trade acceptance service as defined in the Legal Terms of Service.