

10 December 2021

Email: regulatorypolicy@asx.com.au

Office of General Counsel
ASX Limited
20 Bridge Street
Sydney NSW 2000

Attention Diane Lewis

Dear Diane

CHESS REPLACEMENT: TRANCHE 3 AND COMBINED RULE AMENDMENTS CONSULTATION PAPER

The Stockbrokers and Financial Advisers Association (SAFAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and Advisory firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

Our members include clearing and settlement and settlement only participants ('Participants').

Thank you for the opportunity to provide feedback on the Tranche 3 and combined rule amendments consultation paper.

We have obtained the following specific feedback from our members on the relevant issues raised in the consultation paper.

Detailed comments

ASX Settlement Operating Rule 8.18.2

This rule requires Participants to take 'all reasonable steps' 'as soon as reasonably practicable' to obtain correct Holder Records as a result of a returned or undelivered Holding statement or other Notice.

In addition to potentially significant penalties for breach of a Settlement Operating Rule, Participants also indemnify ASX Settlement and the Issuer under Settlement Operating Rules 8.7.4 and 8.18.5 from and against losses suffered by reason of the provision of unauthorised or incorrect details in relation to a Holder.

Participants will have returned mail processes in place already that will need to be changed in order to ensure compliance with these new and important requirements.

Our members have identified the following issues with these rules that will require clarification by the ASX before they can finalise these process changes:

- When can Participants assume the details are incorrect? Is one email bounce back not sufficient? Two? Three? Other indicator?.
- What constitutes 'all reasonable steps' to obtain the correct details? Is positive confirmation from the client required?
- Can a Participant suspend the account whilst taking reasonable steps to get correct details and if so for how long, noting that Registries and the Issuer will continue to engage with the holder?
- When can a Participant close the account to cap the risk where the details are known to be incorrect e.g. new Default Event?

ASX Settlement Operating Rule 8.10.1 - Account and Holder creation (including changes to Holder details)

Changes are being made in respect of Account and Holder functionality that will allow, from a system perspective, for up to four joint Holders per HIN to be recorded in the new system. We note, however, that settlement Participants will continue to be subject to existing rules-based restrictions on establishing a Holder Record with more than three Holders unless permitted under the Issuer's constitution (reflecting restrictions in most Issuer constitutions).

Our members recommend that ASX provide Participants with a way of knowing the allowable number of joint Holders (ASX Settlement Operating Rule 8.10.1) for each CHESS-eligible product. Otherwise, Participants will have to set a minimum restriction of three joint Holders rather than four. From a practical perspective it will be too administratively burdensome for them to check each Issuer's constitution for any restriction on the number of joint Holders.

Locking and unlocking of accounts and holdings

The consultation paper states that "where there has been a death or bankruptcy of a Participant Sponsored Holder, the replacement system will place a 'Named Holder Indicator' on that Holder, being an indicator that the relevant Holder relates to the death or bankruptcy (e.g. for joint holdings, this indicator will identify which Holder has died or is bankrupt)."

This description is inconsistent with the Technical Documentation for migration of data from CHESS to the CSP and data cleansing requirements which stipulates that all joint Holdings should have a survivorship processed rather than applying a Holder Record Lock to the joint Holding as per ASX Settlement Operating Rule 8.15.9.

Our members have asked for clarification on whether the reference to a Named Holder Indicator on a joint Holding is a Transitional Outcome only, or whether there is a go-forward use case not otherwise documented of a joint Holder Record being locked due to death or bankruptcy.

ASX Settlement Operating Rule 19.2.6

The proposed ASX Standard Operating Rule 19.2.6 requires Participants to address outstanding non-compliance of registration details with the ISO20022 standards, and specifically the registration details in the new system. SAFAA supports the proposed rule, however we recommend ASX also consider an enforcement regime for Issuers to conform to this requirement as well. ASX Settlement Operating Rule 19.2.6 does not apply to Issuers.

This creates two different process flows between Issuers and Participants. By way of example, where an SRN contains registration details that are not compliant, such as an invalid country code, a holder name longer than 80 characters, or an invalid holder/address character (for which there is no required remediation prior to migration) a Participant will not be in a position to generate a Registration Identifier under ASX Settlement Operating Rule 8.30.1 as a result of the non-compliant details. This is detrimental to Participants as they are required to bear the cost of failed messages, investigate the root cause and work with Sponsored Holders to update their Issuer Sponsored Securities. We consider that Issuers should have the same data standards applied to them as Participants.

ASX Settlement Operating Rule 9.5.8 – Housekeeping Period for Bilateral Demand Transfers

The proposed ASX Settlement Operating Rule 9.5.8 reduces the Housekeeping Period for Bilateral Demand Transfers to End of Day.

Our members have raised concerns that the proposed reduction in the Housing Period, without any proposed enhancement of the current functional process, may result in Participants experiencing a significant increase in the number of instances they are required to rekey unmatched messages.

Based on current estimates provided by one of our members, 40 percent of Bilateral Demand Messages are currently not matched until the second business day. The proposed change in process will therefore result in a significant increase in instructions cancelled by Housekeeping process. As a result, both parties will incur additional operational cost and complexity due to increased messaging volume and additional work for Participants to enhance current systems and processes to accommodate this increase.

SAFAA recommends ASX return the Housekeeping Point for unmatched Bilateral Demand instructions to the end of the second day as it is for CHESS. Failing that, we recommend ASX establish a future Cash Settlement Platform ('CSP') fee that does not lead to double-charging by ASX for resubmitting instructions that were not matched by a Counterparty under the CSP same-day Housekeeping regime.

Use of data supplied by Participants

The collection, use and disclosure of data received by CHESS is governed by the ASX Settlement Operating Rules that specify what data needs to be provided and the purpose for which it is provided. SAFAA's members wish to emphasise the importance that the use of data supplied by Participants to ASX be tightly restricted to its key purpose to ensure its security and confidentiality.

If you require additional information or wish to discuss this submission in greater detail please do not hesitate to contact SAFAA's policy manager, Michelle Huckel, at michelle.huckel@stockbrokers.org.au.

Kind regards

A handwritten signature in black ink, appearing to be 'J Fox', written over a light grey rectangular background.

Judith Fox
Chief Executive Officer