



ASX OTC Interest Rate Derivatives and Exchange Traded Derivatives Clearing

Consultation on amendments to the ASX Clear (Futures)
Operating Rules and Procedures to:

- Incorporate the 2021 ISDA Interest Rate Derivatives Definitions
- clarify the ownership of cash and securities deposited as margin or commitment

27 July 2021



Invitation to comment

ASX is seeking submissions on the issues canvassed in this paper by Wednesday 25 August 2021. Submissions should be sent to:

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Attention: Tegan Jones

ASX prefers to receive submissions in electronic form.

If you would like your submission, or any part of it, to be treated as confidential, please indicate this clearly. All submissions will be provided to regulators on request. They may also be published on the ASX website, unless they are clearly marked as confidential or ASX considers that there are reasons not to do so.

ASX is available to meet with interested parties for bilateral discussions on these matters.

Contacts

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Contents

Introduction	3
Summary	3
Proposed Amendments to the OTC Rules and Handbook	3
Implementation of the new 2021 ISDA Definitions	3
Proposed operational approach for implementation of the new 2021 ISDA Definitions	4
Proposed Amendments to the Futures Rules and OTC Rules	5
Clarifying ownership of cash and securities	5
Next Steps	6

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Consultation on amendments to the ASX Clear (Futures) Operating Rules and Procedures to incorporate the 2021 ISDA Interest Rate Derivatives Definitions and clarify the ownership of cash and securities deposited as margin or commitment

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Introduction

This consultation paper covers proposed changes to the ASX Clear (Futures) Operating Rules and Procedures that:

1. replace the 2006 ISDA Interest Rate Derivatives Definitions (**2006 ISDA Definitions**) with the new 2021 ISDA Interest Rate Derivatives Definitions (**2021 ISDA Definitions**) as the standard definitions for cleared interest rate swaps from 4 October 2021; and
2. clarify the existing position that ASX Clear (Futures) (**ASX**) owns cash and securities provided to it by Clearing Participants as margin, commitment or excess deposits.

These changes are outlined in more detail below.

Summary

First, ASX proposes to amend the OTC Rules and Handbook so that effective 4 October 2021:

- OTC Transactions referencing either the 2006 ISDA Definitions or the 2021 ISDA Definitions will be eligible for clearing through the ASX OTC Clearing Service; and
- all OTC Open Contracts (whether cleared by ASX prior to, on or after 4 October 2021) will be treated as if they incorporated the 2021 ISDA Definitions.

Second, ASX proposes to amend the Futures Rules and OTC Rules to clarify that when cash or securities are deposited with ASX as margin, commitment or excess deposits, then that cash or those securities become the absolute property of ASX. In the event that a Clearing Participant defaults, ASX may re-hypothecate some or all of those securities for purposes relating to the management of the Clearing Participant's default.

ASX's proposed amendments to the ASX Clear (Futures) Operating Rules and Procedures outlined in this Consultation Paper are included as Attachment A.

This consultation paper seeks feedback from stakeholders on the proposed amendments to the ASX Clear (Futures) Operating Rules and Procedures to implement these changes. Subject to consultation feedback and regulatory clearance, it is expected that the amendments to the ASX OTC Rules and Handbook for the 2021 ISDA Definitions will be implemented effective 4 October 2021 and to the Futures Rules and OTC Rules to clarify the ownership of cash and securities in Q4 2021.

Responses to this Consultation Paper should be submitted to ASX by Wednesday 25 August 2021.

Proposed Amendments to the OTC Rules and Handbook

Implementation of the new 2021 ISDA Definitions

In June 2021, ISDA published the new 2021 ISDA Definitions that will replace the 2006 ISDA Definitions as the standard definitions for cleared and non-cleared interest rate derivatives. ISDA has said that the changes are necessary to consolidate supplements made to the 2006 ISDA definitions as a result of changes in market structure, regulations, technology and market practice¹. ISDA has set an effective date for the 2021 ISDA Definitions to be used as the market-standard booklet from Monday 4 October 2021.

¹ <https://www.isda.org/a/apzTE/Introduction-to-the-2021-ISDA-Interest-Rate-Derivatives-Definitions-Update.pdf>

The ASX OTC Rules and Handbook in the ASX Clear (Futures) Operating Rules currently reference the 2006 ISDA Definitions to:

- determine the OTC Transactions that are eligible for clearing through the ASX OTC Clearing Service; and
- define the terms of OTC Open Contracts arising from the novation of OTC Transactions.

In response to ISDA's introduction of the 2021 ISDA Definitions, ASX proposes to make a number of changes to the ASX OTC Rules and Handbook so that on and from 4 October 2021:

- OTC Transactions referencing either the 2006 ISDA Definitions or the 2021 ISDA Definitions will be eligible for clearing through the ASX OTC Clearing Service;
- all OTC Open Contracts (whether cleared before, on or after 4 October 2021) will be treated as if they incorporated the 2021 ISDA Definitions (not the 2006 ISDA Definitions); and
- the references to the 2006 ISDA Definitions are updated to reflect the new 2021 ISDA Definitions.

Given that from 4 October 2021 all OTC Open Contracts will reference the 2021 ISDA Definitions thereby establishing economic equivalence between legacy and new OTC Open Contracts, these amendments are not expected to impact existing processes such as multilateral compression (OTC Rule 4.14) or netting of OTC Open Contracts (see OTC Rule 4.15).

ASX considers its proposed approach outlined above is consistent with the approach being adopted by the majority of other global CCPs in relation to the implementation of the ISDA 2021 Definitions.

Key OTC Rules and Handbook References – ISDA 2021 Definitions

OTC Rules: 1.10 (OTC Terms)

OTC Handbook: Schedule 1 – OTC Eligibility Criteria; Schedule 2 – OTC Terms

Consultation Questions

1. ASX has assessed that the application of the 2021 ISDA Definitions to existing (legacy) OTC Open Contracts (currently referencing the 2006 ISDA Definitions) will have no material economic impact and will not change the valuation of these OTC Open Contracts given the suite of OTC interest rate derivatives that are clearable at ASX. Do you agree? If not, please indicate where you believe an economic impact will arise.
2. Do you support ASX treating all cleared transactions (including legacy trades) as if they incorporated the 2021 ISDA Definitions? If not, why not?
3. Are there other ancillary matters that should be addressed in ASX's proposed amendments to the OTC Rules and Handbook?

Proposed operational approach for implementation of the new 2021 ISDA Definitions

ASX OTC Reporting

ASX's OTC Clearing Reports do not require changes as part of the ASX proposal to implement the 2021 ISDA Definitions:

Currency	ISDA 2006 definitions name	ISDA 2021 definitions name	ASX Proposal – Reporting FRO label (unchanged)
AUD	AUD-AONIA-OIS-COMPOUND	AUD-AONIA-OIS Compound	AUD/AONIA/1D/RBA30
AUD	AUD-BBR-BBSW	AUD-BBSW	AUD/BBSW/1M/BBSW AUD/BBSW/3M/BBSW AUD/BBSW/6M/BBSW
NZD	NZD-BBR-FRA	NZD-BKBM FRA	NZD/BKBM/3M/BKBM
NZD	NZD-NZIONA-OIS-COMPOUND	NZD-NZIONA-OIS Compound	NZD/NZIONA/1D/RBNZ02

API, FPML and Regulatory Reporting

From 4 October 2021 ASX OTC Clearing API FPML messages (e.g. confirmation of clearing) will apply the 2021 ISDA FRO label (e.g. AUD-BBSW), regardless of whether the clearing request applied the 2006 ISDA or 2021 ISDA FRO label.

From 4 October 2021 ASX OTC regulatory reporting will apply the 2021 ISDA FRO label on all cleared swaps (e.g. AUD-BBSW rather than AUD-BBR-BBSW).

Currency	ISDA 2006 definitions name	ISDA 2021 definitions name	ASX Proposal – API, FPML and regulatory reporting FRO label
AUD	AUD-AONIA-OIS-COMPOUND	AUD-AONIA-OIS Compound	AUD-AONIA-OIS Compound
AUD	AUD-BBR-BBSW	AUD-BBSW	AUD-BBSW
NZD	NZD-BBR-FRA	NZD-BKBM FRA	NZD-BKBM FRA
NZD	NZD-NZIONA-OIS-COMPOUND	NZD-NZIONA-OIS Compound	NZD-NZIONA-OIS Compound

Note: ASX is not intending to issue amendment FPML messages to customers via its API to update the FRO label on legacy trades.

Operational approach - Consultation Questions

1. Do you support ASX's proposal to apply the 2021 ISDA FRO label on all API and FPML messages created by ASX on or after 4 October 2021? (This question is only relevant to users of ASX's OTC Client Clearing API).
2. Do you support ASX's proposal not to issue amendment FPML messages to customers via its API to update the FRO label on legacy trades? (This question is only relevant to users of ASX's OTC Client Clearing API).
3. Are there any other matters that should be addressed in ASX's proposed operational approach for implementation of the new 2021 ISDA Definitions?

Proposed Amendments to the Futures Rules and OTC Rules

Clarifying ownership of cash and securities

ASX proposes to amend the Futures Rules to clarify that when cash or securities are deposited with ASX as margin, commitment or excess deposits then that cash or those securities become the absolute property of ASX. These amendments:

- supplement the existing framework that applies to the ownership of securities already set out in OTC Rule 5.3 (Securities and OTC Initial Margin) and the Client Protection Model provisions in Part 10 of the Futures Rules (including FR 112.1(i)-(j)); and

- clarify the ownership of cash deposited with ASX by Clearing Participants for both Futures and OTC Clearing.

In addition, ASX proposes to amend its default powers to provide that in the event of a default of a Clearing Participant ASX may re-hypothecate some or all of the securities deposited with it by the defaulting Clearing Participant for purposes relating to the management of the default. This may include, for example, ASX entering into a repurchase agreement with the RBA to facilitate liquidity for the purpose of settlement.

Minor updates have been made to the OTC Rules to clarify that the new provisions relating to the ownership of cash and securities deposited with ASX applies to OTC Clearing too.

Key Futures Rule and OTC Rules References – Clarifying ownership of cash and securities

Futures Rules: 49A (Absolute transfer of securities, collateral and other property); 49B (Cash and excess deposits represent property of ASX Clear (Futures)); 72.1(ba) (Powers of ASX Clear (Futures) Upon A Default and Determination of A Loss)

OTC Rules: 5.1 (Signpost to related Futures Rules); Schedule 1 (Relationship with Futures Rules)

Consultation Questions

1. Are there other matters relating to ownership of margin and commitment that you think ASX should clarify as part of these rule amendments?

Next Steps

ASX seeks stakeholders' view on the draft amendments to the ASX Clear (Futures) Operating Rules and Procedures. Submissions should be made by Wednesday 25 August 2021.

ASX welcomes the opportunity to discuss the draft amendments with interested parties (refer to the contact details on page 2).