

# Frequently Asked Questions (FAQ)

## For Clients of a Defaulting Clearing Participant

### Who is this FAQ for?

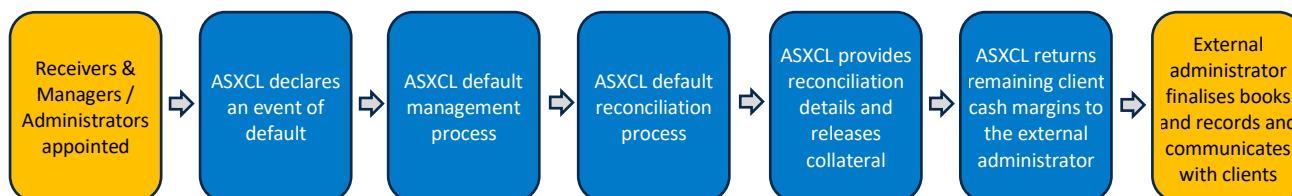
This FAQ is for clients of a defaulting Clearing Participant of ASX Clear Pty Ltd (ASXCL).



### The purpose of this FAQ

The purpose of this FAQ is to provide information to clients in the event their Clearing Participant defaults on its obligations to ASXCL. It covers information on cash equity market transactions that have not settled at the time of the Clearing Participant's default, together with open Exchange Traded Option (ETO) positions and participant sponsored security holdings.

This information should be read in conjunction with the ASXCL Clearing Participant default overview document ([www.asx.com.au/services/default-management.htm](http://www.asx.com.au/services/default-management.htm)), the ASXCL Operating Rules and the agreement(s) between you ("the client") and your Clearing Participant. This FAQ does not replace or vary the ASXCL Operating Rules.

### ASXCL – Default Management process



-  ASXCL process
-  Receivers and Managers and / or Administrator process

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## Communication

### 1. How will I know if my Clearing Participant is in default?

Your Clearing Participant should directly inform you of events that have resulted in it being declared in default and suspended by ASXCL. This advice might be provided by an Administrator / Receiver appointed to manage the affairs of your Clearing Participant.

You should also refer to your Clearing Participant's website for announcements and additional information. The ASX website at [www.asx.com.au](http://www.asx.com.au) may also provide additional information.

### 2. What is the role of ASXCL in a default situation?

ASXCL provides protection to non-defaulting Clearing Participants and indirectly their clients from the inability of a defaulting Clearing Participant to meet its obligations. It does not change the exposure you have if your own Clearing Participant defaults. ASXCL's priority is to minimise the impact of the default on the market as a whole. More detail on the role of ASXCL can be found [here](#).

### 3. What is the role of an Administrator, Receiver and / or Liquidator?

A company will be placed in administration when the directors of the company form the opinion that the company is insolvent, or is likely to become insolvent. An administrator, who is a person external to the company, is appointed to manage the company and make a determination whether the company can continue in business or should be wound up (i.e. liquidated).

A company will go into receivership when an independent receiver is appointed by a secured creditor or, in rare circumstances, by the court, to take control of some or all of the company's assets.

Liquidation involves the process of winding up a company's financial affairs in order to dismantle the company's structure, undertake appropriate investigations and fairly distribute the company's assets to its creditors.

The Australian Securities & Investments Commission (ASIC) has published fact sheets available to creditors seeking further information on the process of [liquidation for creditors](#) and [receivership for creditors](#), and maintains a website for the publication of insolvency and external-related notices, including details of creditor meetings [here](#).

### 4. How can I keep updated on the status of my unsettled transactions / open positions?

You will need to contact your Clearing Participant, or Administrator / Receiver if appointed, regarding your unsettled transactions and / or open positions. You should also make use of the customer hotline or other communication channels established by the Administrator / Receiver.

Your relationship is with your Clearing Participant, which maintains on its books and records details of your individual trading and cash transactions. ASXCL does not manage the transactions between you and

your Clearing Participant, the terms of which are governed by your client agreement. Accordingly ASXCL cannot advise you on the impact of ASXCL's default actions on your individual client positions.

#### 5. [Who can I call when the Administrator is not returning calls?](#)

Complaints about the conduct of your Clearing Participant or the external administrator, can be directed to ASIC. Refer to the "Contact Us" page on the ASIC website [asic.gov.au/about-asic/contact-us/](http://asic.gov.au/about-asic/contact-us/) for details on how to contact ASIC.

### [CHESS Sponsored Holdings](#)

#### 6. [Are my securities safe in CHESS?](#)

CHESS (Clearing House Electronic Sub-register system) is an electronic system that registers legal title (or ownership) of shares and other securities, and facilitates the settlement of trades in those securities. It does this by recoding the transfer of legal title to securities while simultaneously facilitating the transfer of money paid for those securities.

If you are a sponsored holder of securities in CHESS, you are the person who is registered as the legal owner of those securities. You are given a Holder Identification Number (HIN), which is used to identify you as the legal owner of securities in CHESS. A HIN is similar to an account number.

If you hold securities in CHESS then your sponsoring broker controls the transfer of securities to and from your CHESS holdings. However, it may only do so on your instructions and under the terms of the sponsorship agreement you have entered into with your sponsoring broker.

Securities that you hold in CHESS are your property, and not the property of your sponsoring broker. However, your sponsoring broker may have contractual or other rights that it may exercise in relation to your property, for instance, to secure any outstanding amounts that you owe. You should refer to your client agreement to confirm this.

In addition, if you have an options account and you have lodged securities held on your HIN with the ASXCL as collateral then ASXCL has rights over these securities.

#### 7. [How do I transfer my sponsored holdings to another broker?](#)

If your sponsoring broker has had their participation in the ASX Settlement facility suspended and you would like to continue to maintain the registration of your shares on the CHESS subregister, you will need to appoint a new sponsoring broker for your CHESS holdings. To do this you should follow the steps below:

**STEP 1** If you haven't already done so, you should contact a broker who can act as your new sponsoring broker for your CHESS holdings.

**STEP 2** If you haven't already done so, you should establish an account with a new sponsoring broker, including entering into a Sponsorship Agreement. Your new account must be set up to exactly

match the current registration details of your existing HIN e.g. name, address and account designation must be identical to your existing details.

**STEP 3** Provide your new sponsoring broker with written instructions to authorise transfer of control of your holding in CHESS to your new sponsoring broker. Your written instructions must be dated and signed by you as the registered account holder(s) (joint account holders must all sign) and must include your HIN, registration name and address details as well as your telephone contact details.

If ASX Settlement receives a valid transfer request from your new sponsoring broker, ASX Settlement will effect the change of your sponsoring broker for those CHESS holdings.

If you would like to obtain information about the status of your new account set up or your transfer request you will need to speak directly with your new sponsoring broker.

#### 8. [How can I convert my sponsored holdings to Issuer Sponsored?](#)

If you wish to have your CHESS holdings converted to issuer sponsored holdings, you will need to provide the following information to ASX Settlement.

- a) HIN (Holder Identification Number);
- b) Name of Registered Holder(s);
- c) Registered Address; and
- d) Account Designation (if applicable) e.g. <A/C 1>

(The details must match exactly with the registration details in CHESS.)

Should you require further assistance or wish to obtain information about the status of your request to convert your CHESS holdings to issuer sponsored holdings you can contact [ASX Customer Service](#) on **131 ASX (131 279)**.

#### 9. [If my broker can no longer act as my sponsoring broker how can I provide instructions for any takeovers or buy-backs?](#)

If your CHESS holdings are subject to a takeover or buyback, and your sponsoring broker has been suspended in ASX Settlement, they will not be able to process in CHESS any instructions from you to accept that takeover or buyback.

Until you have appointed a new sponsoring broker for your CHESS holdings, or they have been converted to issuer sponsored holdings, you will need to contact the relevant company registry to accept any takeover or buyback relating to those CHESS holdings. The company share registry details will be contained in any notice you have received regarding the takeover or buy-back.

## Closing out Positions

### 10. Who decides whether or not the defaulting Clearing Participant's remaining/outstanding Cash Equities transactions continue to settle through CHESSE after the default has been announced?

ASX Settlement will decide whether or not to permit the defaulting Clearing Participant's outstanding transactions to settle as normal. Only ASX Settlement has the authority to make that decision.

The key factors that will be taken into account include:

- a) ASX Settlement's License obligations as a Clearing and Settlement facility to do all things necessary to ensure that its services are provided in a fair and effective way;
- b) whether the defaulting Clearing Participant is a net receiver of funds or has approved funding in place for its net payment obligation;
- c) whether the defaulting Clearing Participant has access to stock required for settlement; and
- d) whether the defaulting Clearing Participant has the operational capacity to continue with settlement.

### 11. What does ASX do when it trades out of (or "closes out") my Clearing Participant's open positions?

For cash equities all outstanding settlement obligations are netted together at the stock level and then ASXCL enters into an offsetting transaction in order to fulfil those settlement obligations to non-defaulting Clearing Participants on the other side.

Similarly, for ETOs all open positions in both the defaulting Clearing Participants House and Client accounts are netted together at the instrument level and then ASXCL enters into offsetting transactions in order to neutralise the risk of the defaulting Clearing Participant's net open positions in ETOs.

Following the close out of all of the defaulting Clearing Participant's outstanding transactions (cash equities) and open positions (ETOs), and the sale of any non-cash collateral to cover the costs of close out, a reconciliation is provided to your defaulting Clearing Participant, or Administrator / Receiver if appointed detailing all close out transactions and associated prices.

### 12. What are the implications for my positions when ASXCL closes out my Clearing Participant's open positions?

As mentioned in Question 4, your positions are with your Clearing Participant, which maintains on its books and records details of your individual trading and cash transactions.

Your Clearing Participant, or Administrator / Receiver if appointed is responsible for managing the course of your positions on its books and should be able to provide you with the following information:

- a) What positions have been closed out;
- b) The price at which those positions were closed out; and
- c) Any relevant reporting for taxation purposes

### Managing my Exchange Traded Options (ETOs) positions

#### 13. Can I move my ETOs to another Clearing Participant?

Following the default of a Clearing Participant, ASXCL has the power, subject to conditions being satisfied, to transfer a client's positions that are separately accounted for in a segregated client account at ASXCL to another non-defaulting Clearing Participant.

The conditions that ASXCL may need to be satisfied of before seeking to transfer a client's open positions include:

- a) the pre-existence of alternative clearing arrangements for affected clients;
- b) receiving timely consent from the client's new (receiving) Clearing Participant to accept the client positions to be transferred (timeframe will be determined by ASXCL but will normally be within 48 hours of ASXCL declaring the Clearing Participant to be in default and suspending them);
- c) written consent for the transfer has been obtained from the client; and
- d) confirmation that the potential margin impact of such a transfer on all parties involved (client, receiving Clearing Participant and ASXCL) is manageable.

You will need to lodge your request for transfer of your positions and collateral with your new (receiving) Clearing Participant.

ASXCL is unable to take instructions from individual clients about transfers. It can only deal with Clearing Participants to obtain the necessary confirmations.

If the transfer of your positions is completed, your new Clearing Participant will record the position in your account in its books and records and ASXCL and the new Clearing Participant will establish a position in a segregated client account at the clearing house representing that position between ASXCL and the new Clearing Participant.

#### 14. Can I continue to maintain my ETO positions?

Your ETO positions will only remain open if they are transferred to an alternate Clearing Participant.

If your ETO positions are closed out, this will be because arrangements for transfer to a new Clearing Participant are not confirmed to ASXCL in accordance with the requirements detailed in Question 13.

However, if there are positions that are out of the money and within a week or so of expiry, ASXCL may exercise discretion to allow the position to expire.

15. [My participant told me I have my own client account set up with ASXCL for ETOs. Does that mean that my ETO positions and collateral are safe even though my Clearing Participant is now in default?](#)

ETO positions maintained by your Clearing Participant with ASXCL in relation to your transactions are booked to a segregated client account. However, those positions relate to the contract between ASXCL and your Clearing Participant with respect to the transactions it has executed on your behalf. Accordingly, you do not have a right against ASXCL to performance, or the continued maintenance at ASXCL of open positions in the event of your Clearing Participant's default. Your contractual relationship in respect of your transactions is always with your Clearing Participant and not ASXCL.

If your ETO positions are not transferred to an alternate Clearing Participant, ASXCL will close out the positions it has with your defaulting Clearing Participant. If necessary, ASXCL will sell some or all of your securities that have been lodged as collateral against those positions (including stock lodged as specific cover) to cover any costs it incurs in closing out those positions.

16. [I lodged securities as collateral against my ETO positions. How do I get that stock back?](#)

If your open ETO positions are transferred with your non cash collateral to an alternate Clearing Participant, then your alternate Clearing Participant will lodge your stock against the new position your alternate Clearing Participant has registered with ASXCL.

If your ETO positions are not transferred, ASXCL will close out the positions it has with your defaulting Clearing Participant. If necessary, ASXCL will sell some or all of your securities that have been lodged as collateral against those positions (including stock lodged as specific cover) to cover any costs it incurs in closing out those positions.

At the completion of the default management process, ASXCL provides a reconciliation to the defaulting Clearing Participant or Administrator / Receiver if appointed detailing all non-cash collateral sales and associated prices. This will allow the defaulting Clearing Participant or Administrator / Receiver if appointed to close out your positions and reflect the liquidation of your collateral in the books and records of the defaulting Clearing Participant. They should then be able to provide you with information about the liquidation of your collateral including the amount liquidated.

If you have any surplus non-cash collateral still lodged on your account, ASXCL will remove the collateral lock and control of the stock will revert to the registered holder's sponsoring participant.

17. [What happens to any surplus cash?](#)

At the completion of the default management process:



- a) ASXCL will pay to the defaulting Clearing Participant's Trust Account any remaining surplus cash margins in respect of client accounts, on the basis that it will hold and deal with these monies in accordance with all applicable laws (including the Corporations Act) on behalf of clients entitled to the moneys; and
- b) Any surplus proceeds from the sale of collateral securities lodged against your account will be paid directly to the registered holder of those securities by ASXCL.

## General

### 18. What do I do if I want to trade in the ASX Market?

If your defaulting Clearing Participant was also an ASX Market Participant or CXA Market Participant then their participation as an ASX Market Participant or CXA Market Participant would also have been suspended and, as such, they will be unable to place any orders for clients on the ASX Market. If you want to place an order on the ASX Market, you will need to open an account with another broker.

If you don't already have a relationship with another broker, you will need to enter into a new client agreement with an alternative broker. You can use the "Find a broker" function on the ASX website [here](#) to help you select a new broker.

If your CHESSE sponsored holdings have been converted to issuer sponsored holdings then you should also check with your new broker as to any additional requirements they may have before trading that issuer sponsored holding.

### 19. The defaulting Clearing Participant is also my sponsoring broker. I want to sell some stock through another participant. How do I get that stock?

Once you have established a client relationship with a new Sponsoring Participant and provided them with all details about your sponsored holding, you will need to instruct them to initiate a transfer of those holdings from your defaulting Clearing Participant.

You should also check with the defaulting Clearing Participant or Administrator / Receiver if appointed to ensure that the stock is available for transfer and is not being held against any outstanding obligations you may have with your defaulting Clearing Participant.

### 20. The administrator of my Clearing Participant has advised that their client accounting system is no longer functioning and they have no way of approving a transfer of sponsored stock to another sponsoring participant. How can I get back control of my stock?

Please refer to Question 7.

21. I have outstanding transactions and open positions and associated money in other instruments including foreign exchange, unlisted managed funds and CFDs with my Clearing Participant. What is the status of those?

These products are outside of ASXCL's remit and ASXCL is not responsible for transactions, open positions and associated money for the products.

You need to contact your Clearing Participant or Administrator / Receiver if appointed to obtain all information and reports in relation to the contracts and any other dealings you had with your Clearing Participant.

22. Can I access the National Guarantee Fund for any money I lose?

Claims against the National Guarantee Fund (NGF) can only be made in certain circumstances. Clients should refer to the NGF client information booklet, found [here](#), for details on eligible claims and how to apply.