

KEY TOPICS

1. Requirements Client Agreements
2. Procedures, Wholesale Client Agreement – Options Market Contract only.

ASX Market Rules

1. 2.10
2. 7.1&
3. 29.3

ACH Rules

1. 7.1
2. 9.1&
3. 23.2

Cross-reference

1. Corps Act S127 (1)
2. ACH Guidance Note 045
3. ASX Guidance Note New Clients – 11 March 2004

Guidance Note History

Issued: 01/08/05

Previously:

CLIENT AGREEMENTS – REQUIREMENTS

The requirement for Participants to enter into Client Agreements with Clients

Purpose

This guidance note provides assistance to ASX Market Participants (“Market Participants”) and ACH Clearing Participants (“Clearing Participants”) on the interpretation of ASX’s and ACH’s expectations in relation to Client Agreements. It sets out the obligations of the various categories of Market Participants and Clearing Participants with respect to Client Agreement obligations before accepting an order to enter into or clear a Market Transaction, in respect of certain products, on behalf of clients.

Reference Tables

In recognition of the various business models adopted by Participants, the ASX Market Rules and the ACH Clearing Rules are unavoidably complex with respect to the requirement to enter into Client Agreements for both Retail and Wholesale Clients. This guidance note is designed to assist Participants to more clearly identify the aspects of these Rules that are applicable to their business model.

For ease of reference, attached to this guidance note are two tables which individually categorise each product and business model for Retail Clients (Attachment A), and Wholesale Clients (Attachment B).

These tables are designed to direct Participants to the Rules relating to Client Agreements that are applicable to each different product as they apply to each different participation type.

For example: A Market Participant that is also a Trading Participant, but is not a Clearing Participant with a Retail Client that wishes to trade in Options should refer to ASX Market Rules 7.1.1(a); 7.1.2 and 7.1.4(c). [See Attachment A, column B, row 2.]

In the reference tables, columns D and E both relate to the single Trading Participant with two Clearing Participants model. More specifically, column D covers the situation where the Trading Participant is acting in its capacity as one of the Clearing

Participants. Column E covers the situation where the Trading Participant is using the services of a Third Party Clearing Participant.

General matters to consider

In relation to dealing in equities, although there is no requirement in either the ASX Market Rules or the ACH Clearing Rules for a client agreement, ASX strongly encourages each Participant to execute client agreements with their clients. This allows the client to understand their rights and obligations. In the event of a dispute concerning transactions it also provides some protection to both Participants and the clients.

Where a Participant is both a Trading Participant and a Clearing Participant and is required to enter into a client agreement under both the ASX Market Rules and the ACH Clearing Rules, the Participant may consider amalgamating the terms of the two agreements into a single agreement.

Wholesale Client Agreements

Definition

The term “Wholesale Client Agreement” is defined in the ASX Market Rules as “the agreement between a Trading Participant and a client lodged with an Approved Clearing Facility in accordance with ASX Market Rules 7.1.4(d) and 7.1.5(b)”.

Agreement with Wholesale Client – Options only

Whilst there is no specific trading related client agreement requirement, ASX Market Rule 7.1.4 requires the Trading Participant to confirm that a Clearing Agreement is in place.

Pursuant to ASX Market Rule 7.1.6, where a Trading Participant accepts an order on behalf of a Wholesale Client that has lodged a Wholesale Client Agreement with the Approved Clearing Facility, then that Wholesale Client, the Trading Participant and (if applicable) the Trading Participant’s Clearing Participant are taken to have entered into an agreement in accordance with the terms of that Wholesale Client Agreement.

CHES Sponsorship

In addition to the agreements referred to above, ASTC Participants which sponsor clients will be required to enter into CHES Sponsorship Agreements in accordance with the ASTC Settlement Rules.

Transitional Arrangements- ASX Market Rule 29.3 and ACH Clearing Rule 23.2

For the purposes of these transitional provisions, the relevant amended ASX and ACH Rules are ASX Market Rules 7.1 and 29.3.3 and ACH Clearing Rules 7.1 and 23.2.

Pursuant to ASX Market Rule 29.3, any Wholesale Client Agreement entered into between an existing ASX Market Participant and a client under Old ASX Business Rule 7.3.1.5 continues in effect and is deemed to have been provided to ACH under Rule 7.1.4.

Pursuant to ACH Clearing Rule 23.2, any Wholesale Client Agreement previously lodged with ACH under the Old ASX Business Rule 7.3.1.5 continues in effect and is deemed to have been provided to ACH under Rule 7.1.2.

On 12 March 2004 ASX and ACH provided “no action” relief on the terms set out in ACH Notice 045. The “no action” relief had effect until the date on which amendments to the relevant ASX and ACH Rules take effect.

The effect of the Transitional Arrangements is:

- Wholesale Clients who lodged Wholesale Client Agreements under Old ASX Business Rule 7.3.1.5 on or before 10 March 2004 still have the benefit of those agreements provided that the Participant is able to confirm the existence of that agreement with ACH.
- Wholesale Clients who became clients during the "no action" period (that is, between 11 March 2004 and 1 August 2005 being the date on which amendments to the relevant ASX and ACH Rules take effect) must meet the requirements of the ASX and ACH Rules as set out in this Guidance Note by 31 October 2005.
- Any new Wholesale Clients who became clients after 1 August 2005 being the date on which amendments to the relevant ASX and ACH Rules take effect, must meet the requirements of the Rules as set out in this Guidance Note immediately.

Qualification

ASX has published this note to promote commercial certainty, and assist Market Participants. Nothing in this note necessarily binds ASX in the application of the Rules in a particular case. In issuing this note ASX is not providing legal advice and Market Participants should obtain their own advice from a qualified professional person in respect of their obligations. ASX may replace this Guidance Note at any time. Readers should contact ASX to ensure they have the latest version.

**ATTACHMENT A
RETAIL CLIENT REQUIREMENTS**

	A Market Participant without Trading Permission	B Market Participant/Trading Participant Only	C Market Participant/Trading Participant and Clearing Participant	D Market Participant/Trading Participant using up to 2 Clearing Participants- Self clearing for the relevant transaction.	E Market Participant/Trading Participant using 2 Clearing Participants – Using a 3 rd Party Clearing Participant for the relevant transaction	F Clearing Participant acting for a Market Participant/Trading Participant
1. Equities	ASX 7.1.1 (a); ASX 7.1.1 (b); & ASX 7.1.1 (c).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	ASX 7.1.1 (a).	ASX 7.1.1 (a).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	Nil
2. Options	ASX 7.1.1 (a); & ASX 7.1.1 (b).	ASX 7.1.1 (a); ASX 7.1.2; & ASX 7.1.4 (c).	ASX 7.1.1 (a); ASX 7.1.2; ASX 7.1.5(a); ACH 7.1.1; & ACH 7.1.2.	ASX 7.1.1 (a); ASX 7.1.2; ASX 7.1.5(a) ACH 7.1.1; & ACH 7.1.2.	ASX 7.1.1 (a); ASX 7.1.2; & ASX 7.1.4 (c).	ACH 7.1.1; & ACH 7.1.2.
3. Futures	ASX 7.1.1 (a); ASX 7.1.1 (b); & ASX 7.1.1 (d).	ASX 7.1.1 (a); ASX 7.1.1 (d); & ASX 7.1.2.	ASX 7.1.1 (a); ASX 7.1.2; ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (b).	ASX 7.1.1 (a); ASX 7.1.2; ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (b).	ASX 7.1.1 (a); ASX 7.1.1 (d); & ASX 7.1.2.	ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3(b).
4. Warrants	ASX 7.1.1 (a); ASX 7.1.1 (b); & ASX 7.1.1 (c).	ASX 7.1.1 (a); ASX 7.1.1 (c); & ASX 7.1.2.	ASX 7.1.1 (a); & ASX 7.1.2.	ASX 7.1.1 (a); & ASX 7.1.2.	ASX 7.1.1 (a); ASX 7.1.1 (c); & ASX 7.1.2.	Nil
5. Loan Securities	ASX 7.1.1 (a); ASX 7.1.1 (b); & ASX 7.1.1 (c).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	ASX 7.1.1 (a).	ASX 7.1.1 (a).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	Nil

**ATTACHMENT B
WHOLESALE CLIENT REQUIREMENTS**

	<u>A</u> Market Participant without Trading Permission	<u>B</u> Market Participant/Trading Participant Only	<u>C</u> Market Participant/Trading Participant and Clearing Participant	<u>D</u> Market Participant/Trading Participant using 2 Clearing Participants- Self clearing for the relevant transaction.	<u>E</u> Market Participant/Trading Participant using up to 2 Clearing Participants – Using a 3 rd Party Clearing Participant for the relevant transaction.	<u>F</u> Clearing Participant acting for a Market Participant/Trading Participant
1. Equities	ASX 7.1.1 (a); ASX 7.1.1 (b); & ASX 7.1.1 (c).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	ASX 7.1.1 (a).	ASX 7.1.1 (a).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	Nil
2. Options	ASX 7.1.1 (a); & ASX 7.1.1 (b).	ASX 7.1.1 (a); ASX 7.1.4; & ASX 7.1.6.	ASX 7.1.1 (a); ASX 7.1.5; ASX 7.1.6; ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (a).	ASX 7.1.1 (a); ASX 7.1.5; ASX 7.1.6; ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (a).	ASX 7.1.1 (a); ASX 7.1.4; & ASX 7.1.6.	ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (a).
3. Futures	ASX 7.1.1 (a); ASX 7.1.1 (b) & ASX 7.1.1 (d).	ASX 7.1.1 (a); ASX 7.1.1 (d); & ASX 7.1.2	ASX 7.1.1 (a); ASX 7.1.2; ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (b).	ASX 7.1.1 (a); ASX 7.1.2; ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (b).	ASX 7.1.1 (a); ASX 7.1.1 (d); & ASX 7.1.2	ACH 7.1.1; ACH 7.1.2; & ACH 7.1.3 (b).
4. Warrants	ASX 7.1.1 (a); ASX 7.1.1 (b); & ASX 7.1.1 (c).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	ASX 7.1.1 (a).	ASX 7.1.1 (a).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	Nil
5. Loan Securities	ASX 7.1.1 (a); ASX 7.1.1 (b) & ASX 7.1.1 (c).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	ASX 7.1.1 (a).	ASX 7.1.1 (a).	ASX 7.1.1 (a); & ASX 7.1.1 (c).	Nil