

Approach to the Integration of Disciplinary Tribunals and Appeal Processes for the Australian Securities Exchange

Exposure Paper

April 2007





APPROACH TO THE INTEGRATION OF DISCIPLINARY TRIBUNALS AND APPEAL PROCESSES FOR THE AUSTRALIAN SECURITIES EXCHANGE

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What this Paper is About

The merger of the former Australian Stock Exchange with SFE Corporation took effect in mid-July 2006 shortly after the separation of the market supervision function which created the ASX Group subsidiary, ASX Markets Supervision Pty Limited ("ASXMS").

In early December 2006 the Group holding company changed its name to ASX Limited and the ASX Group launched its new Australian Securities Exchange brand. The merger and the development of the new ASX Group under the Australian Securities Exchange brand provided the catalyst for the review of the disciplinary and appeal processes across the ASX Group.

The objective of this paper is to outline the approach for the integration of disciplinary tribunals and appeal processes to be adopted by the licensed entities across the Australian Securities Exchange. Accordingly, except where relevant to the processes of the integrated disciplinary model proposed, the initiatives and changes detailed in the ASX's consultation paper *'Amendments to ASX Supervisory Process and Powers'* released in December 2006 have not otherwise been referred to or incorporated into this paper.

Comment is invited

Comment is invited in relation to the integrated disciplinary model detailed in this paper.

The deadline for comment is Wednesday 16 May 2007.

Comments should be sent to:

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Executive Summary

1. The merging of the Australian Stock Exchange Limited with SFE Corporation Limited ("SFE") under the ASX Limited holding company ("ASX"), and the subsequent emergence of the ASX Group under the Australian Securities Exchange brand, created the opportunity for the disciplinary and appeal processes in place for the six core licensees in the ASX Group to be reviewed, and to put forward an integrated approach to the disciplinary and appeal processes across the ASX Group.
2. ASX and SFE had both developed disciplinary processes to which their Participants were, and still are, subject. While each is based on a system of 'peer review', the disciplinary systems respectively developed and adopted by the licensed entities pre-merger have distinct procedures and processes.
3. The integrated disciplinary model outlined in this paper seeks to introduce a uniform disciplinary framework that maintains integrity and confidence, and which operates efficiently and effectively for the benefit of all stakeholders. The model extends to appeal processes for both disciplinary and non-disciplinary matters.
4. To this extent, the key features of the integrated disciplinary model are:
 - the establishment of a single 'peer review' Disciplinary Tribunal which incorporates the ASX's Disciplinary Tribunals with the SFE's Business Conduct and Market Practices Committees;
 - the maintenance of the 'peer review' Tribunal model to ensure industry relevance and confidence;
 - the streamlining of procedures to create efficiencies in terms of process, cost and time;
 - the safeguarding of procedural fairness protections for Participants through the requirements and processes incorporated within the integrated disciplinary model; and
 - the creation of a single rulebook dealing with all disciplinary and appeal (both disciplinary and non-disciplinary) processes.



Interpretation

5. References to “ASX Group” in this paper mean the ASX Limited and subsidiary companies, now referred to under the brand “the Australian Securities Exchange”, which include the six core licensed entities:
 - the ASX Limited (“ASX” market operator of the Australian Stock Exchange) and Sydney Futures Exchange Limited (“SFE” market operator of the Sydney Futures Exchange),
 - Australian Clearing House Pty Limited (“ACH”),
 - ASX Settlement and Transfer Corporation Pty Limited (“ASTC”),
 - SFE Clearing Corporation Pty Limited (“SFECC”), and
 - Austraclear Limited (“Austraclear”).
6. References to “ASX”, where appropriate, includes reference to ASX, ACH and ASTC collectively.
7. References to “SFE”, where appropriate, includes reference to SFE, SFECC and Austraclear collectively.
8. Reference to “ASXMS” is a reference to ASX Markets Supervision Pty Ltd, which provides certain services to and on behalf of the licensed entities in the ASX Group.
9. Reference to “Participant” includes reference to a Participant, Market Participant, Responsible Executive, Regulated Person, Facility User or Issuer as defined or referred to under the relevant operating rules.
10. References to “ASX Disciplinary Tribunal” or to the “Tribunal” are a reference to the ASX, ACH and ASTC Disciplinary Tribunals;
11. Reference to “Disciplinary Tribunal” is a reference to the integrated ASX Group Disciplinary Tribunal which is to incorporate the ASX Disciplinary Tribunals with the SFE Business Conduct Committee (“BCC”) and Market Practices Committee (“MPC”).

Background

The Role and Structure of ASX Markets Supervision (ASXMS)

12. ASXMS, a subsidiary of ASX Limited, provides certain services to and on behalf of ASX Limited and other licensed entities in the ASX Group to ensure that adequate arrangements are in place to discharge obligations arising under a number of the licensee obligations for the six core licensed entities in the ASX Group. These services include the investigation of potential breaches or irregularities under the operating rules as well as taking action to enforce compliance with those rules.
13. Headed by the Chief Supervision Officer, and reporting to the ASXMS Board, the four core supervisory units of ASXMS are:
 - Issuers Unit;
 - Participants Unit (being comprised of Compliance Services, Surveillance, Investigations and Prudential Risk Management Divisions);
 - Futures Compliance & Surveillance Unit; and
 - Enforcement Unit.
14. Legal Counsel assisting the ASX Disciplinary Tribunal also reports directly to the Chief Supervision Officer.
15. The licensed entities of the ASX Group are required to ensure adequate arrangements are in place to supervise the market with respect to the license obligations imposed under section 792A(c) of the Corporations Act (for market licensees), or under section 821A(c) of the Corporations Act (for Clearing and Settlement facility licensees) including arrangements for:
 - ensuring that markets are fair, orderly and transparent, or that the services of the facilities are provided in a fair and effective way;
 - monitoring the conduct of Participants on or in relation to the markets or CS facilities; and
 - enforcing compliance with the operating rules of the ASX Group.
16. Investigations into suspected contraventions of the ASX, ASTC and ACH rules are presently conducted by the Investigations Division of the Participants Unit. The Enforcement Unit conducts matters before the ASX Disciplinary Tribunal.

17. Investigations into suspected contraventions of the SFE and SFECC rules, and the Austraclear regulations, are presently conducted by the Futures Compliance & Surveillance Unit. The Futures Compliance & Surveillance Unit conducts matters before the relevant two Committees for adjudicating on SFE disciplinary matters.
18. The current division of investigative responsibilities is intended to remain under the integrated disciplinary model detailed in this paper.
19. It is further intended that the Enforcement Unit will have responsibility for the carriage and conduct of all matters before the integrated Disciplinary Tribunal.

Overview of Current ASX Disciplinary Processes

20. Background

- (a) The ASX Disciplinary Tribunal considers disciplinary matters brought before it in respect of contraventions of the operating rules or for unprofessional conduct. The Tribunal is convened as required to hear and determine matters.

Identification and Investigation

- (b) Upon relevant conduct being suspected or identified, a referral is made to ASX Investigations for analysis and initial investigation.
- (c) If warranted, ASX Investigations prepares a Draft Disciplinary Report and forwards that Report to the relevant Participant for response and comment.
- (d) Once a response has been returned and considered, Investigations may develop a Final Disciplinary Report. The Final Disciplinary Report is then reviewed by the Enforcement Unit which has responsibility for deciding whether or not a matter should proceed to the Tribunal.
- (e) A Contravention Notice is then prepared by the Enforcement Unit, (or a Particulars of Matter for matters under the expedited disciplinary procedures) which together with the Final Disciplinary Report is formally issued to the Participant and lodged with the Tribunal.

Disciplinary Tribunal Review

- (f) Once lodged, the Disciplinary Tribunal sets a timetable for submissions from the parties and a date for the formal hearing of the matter. The practice contemplated under each of the ASX, ASTC and ACH rules, is for formal hearings to be held by the Tribunal in which the attendance and appearance of the parties in person is required.



- (g) Nevertheless, in respect of matters lodged under the expedited hearing process, in uncontested matters, and those matters which are the subject of a proposed agreed settlement between the Participant and ASX, the Tribunal may decide or agree to consider and determine such matters on the basis of the papers before it and in the absence of the parties.
- (h) After a determination is made by the Tribunal, the parties are informed of the decision, and of any sanction if the matters before the Tribunal are found proved.

Appeal

- (i) There is a right of appeal to an Appeals Tribunal which considers the merits of the decision of the Disciplinary Tribunal at first instance. If an appeal is not lodged within the prescribed period, or where an appeal has been lodged and determined, a circular setting out the decision and sanction may be published.

General Comments

- The current ASX disciplinary process has become legalistic, and at times, has come to resemble formal court proceedings.
- The reports issued by ASX Investigations in the past have tended to be lengthy and voluminous.
- The overall ASX disciplinary process can be time consuming and costly, and burdensome upon the Participant.

Overview of Current SFE Disciplinary Processes

21. Background

- (a) SFE has two distinct Committees for adjudicating disciplinary matters - the Market Practices Committee (“MPC”) and the Business Conduct Committee (“BCC”). Each meets at regular intervals, unless there are no matters for decision.

Identification and Investigation

- (b) Upon relevant conduct being identified or detected, it is analysed by SFE Compliance & Surveillance. If warranted, a ‘Notice of Allegation’ letter is sent to the relevant Participant for comment.
- (c) Once comments are returned and considered, SFE Compliance & Surveillance may develop a paper for the BCC or the MPC detailing the alleged breach and incorporating the Participants comments. This paper is not sent to the Participant.

MPC and BCC Review

- (d) Upon the BCC or MPC making a formal determination, the Participant is informed of the decision and of any sanction.
- (e) It is the practice of BCC and the MPC to determine matters in the absence of the Participant, however SFE Compliance & Surveillance staff are present to assist the BCC or the MPC.
- (f) Participants may appear at the discretion of the BCC or the MPC, and there are no provisions for proposed agreed settlements to be placed before the Committees.

Appeal

- (g) There are potentially two appeal rights, first to either the BCC or to the Board, depending on where the matter was first heard, or to an Appeal Tribunal in specific cases which is rarely used. Following the exhaustion of the appeal process a notice may be published to the market which may name the Participant.

- 22. A Comparison Table of the steps in the integrated disciplinary model outlined in this paper, and the steps taken in the current ASX and SFE disciplinary processes, is attached at **Annexure ‘A’**.

Integrated Disciplinary Model

23. The integrated disciplinary model detailed in this paper seeks to merge the current ASX, ACH and ASTC disciplinary processes with the current SFE, SFECC and Austraclear disciplinary processes into a uniform framework that maintains integrity and confidence, and which operates efficiently and effectively.
24. A workflow diagram of the integrated disciplinary model is attached at **Annexure 'B'**.
25. The steps and processes in the integrated model are outlined as follows:

Step (1) *Conduct of concern is identified*

Step (2) *Investigation commenced - information gathered*

Following analysis of the information gathered and obtained, a preliminary view may be formed as to the possibility of a contravention of the relevant operating rules.

Step (3) *'Show Cause' letter sent to Participant*

A 'Show Cause' letter is prepared which outlines the conduct in issue and any potential contravention of the relevant operating rules. This document is then forwarded to the Participant for response. At this stage no final view has been formed, only an identification of the conduct in issue. It may be the case that the conduct can be explained by the Participant.

Step (4) *Reply/Response from Participant*

After receiving the 'Show Cause' letter, the Participant may respond to the allegation/s, contest the evidence and/or offer alternative evidence or explanation.

Step (5) *Final Report/Position on Penalty Statement*

Any response or explanation the Participant offers is then considered. If it is considered that an alleged contravention/s is made out on the available evidence, a decision may be made to issue a Contravention Notice and a Final Report detailing the allegation/s and the evidence which ASXMS relies upon. A statement regarding ASXMS's position on penalty will also be incorporated in the Final Report.

Step (6) *Final Report finalised & lodged with Disciplinary Tribunal*

The Contravention Notice and the Final Report, incorporating ASXMS's statement on penalty, is then issued to the Participant and lodged with the Disciplinary Tribunal at the same time.

Step (7) *Disciplinary Tribunal sets timetable for written submissions*

The Disciplinary Tribunal will set a timetable for determining the matter, and communicate that timetable to the Participant and ASXMS. The Disciplinary Tribunal will ask the Participant if it intends to contest the matter and it will also afford the Participant the opportunity to make submissions on any issues arising out of the Final Report at this time.

Consistent with the current SFE processes, and for reasons of efficiency, effectiveness and cost, the Disciplinary Tribunal will ordinarily review and consider any matter on the papers, and without requiring the parties to attend a hearing. Discretion for the Disciplinary Tribunal to conduct a full hearing, or to request further information from the parties will remain.

Step (8) *Participant lodges submissions with Disciplinary Tribunal*

The Participant will normally lodge any written submissions with the Disciplinary Tribunal within 3-4 weeks, though a longer period may be granted by the Disciplinary Tribunal for matters which have greater complexity. A copy of any submissions is also to be provided to ASXMS.



Step (9) ASXMS submissions in-reply lodged with Disciplinary Tribunal

ASXMS will normally be given 3-4 weeks to respond to any new information offered by the Participant in its response to ASXMS's Final Report and statement as to penalty. This will usually be the last opportunity for submissions on the matter unless the Disciplinary Tribunal requests further information. A copy of any submission is also to be provided to the Participant.

Step (10) Disciplinary Tribunal review (review on papers)

If the Disciplinary Tribunal believes it has all the material and information it needs, it will proceed to decide the matter on the papers and in the absence of the parties. However, at the Disciplinary Tribunal's discretion, it may:

- **Step (10A)** - request further written submissions from ASXMS or the Participant, or both; and/or
- **Step (10B)** – consider it necessary or appropriate for a formal hearing to be conducted requiring the attendance of the parties in person.

It is intended that the Disciplinary Tribunal under the integrated disciplinary model will be comprised of three (3) or more members drawn from a Tribunal Panel. To ensure the retention of 'peer review' and industry involvement, the Tribunal Panel will be comprised of a range of industry specialists.

Step (11) Disciplinary Tribunal decision

Whether on the papers, or by formal hearing, the Disciplinary Tribunal will make a determination regarding the alleged breaches. It will also make a decision as to the relevant penalty. This decision, accompanied by written reasons for decision, will then be communicated to the parties.

Step (12) Lodgement of appeal

Either party may appeal the decision of the Disciplinary Tribunal. A notice of appeal and the grounds of that appeal are to be received by the Disciplinary Appeals Tribunal no later than 10 business days after the receipt of the Disciplinary Tribunal's written reasons for decision.

Parties may appeal on grounds of:

- (a) liability and/or;
- (b) penalty.

The Disciplinary Appeals Tribunal will not conduct a new hearing *per se* or receive any new evidence. The role of the Disciplinary Appeals Tribunal is to review the merits of the original decision of the Disciplinary Tribunal.

Appeals will ordinarily be considered and determined on the papers only and following the receipt of submissions from the parties. However, at the Disciplinary Appeals Tribunal's discretion, it may:

- **Step (12A)** – request further written submissions from ASXMS or the Participant, or both; and/or
- **Step (12B)** – consider that a matter warrants a formal hearing requiring the attendance of the parties.

Step (13) Appeal Tribunal decision

The Disciplinary Appeals Tribunal will make a determination regarding the appeal and provide the parties with written reasons for the decision.

Key Benefits of the Integrated Disciplinary Model

Improved Efficiency - Reduction in Compliance Costs & Regulatory Burden

26. A 'Show Cause' letter will replace the current ASX Draft Disciplinary Report and the current SFE 'Notice of Allegation' Letter. The elimination of the ASX Draft Disciplinary report is expected to permit the initial stages of the disciplinary process to proceed in a more timely and efficient manner.
27. Under the current ASX disciplinary process, significant time and resources are employed to produce a Draft Disciplinary Report, a document which can be of considerable volume, and which is then sent to the Participant for comment. Instead, a 'Show Cause' letter will identify the relevant conduct and the key investigation issues. The Participant is placed on notice that certain conduct is being investigated and is given the opportunity for comment and response to the issues raised in the 'Show Cause' letter.
28. Disciplinary Tribunal hearings requiring the attendance of the parties will be the exception rather than the rule. It is proposed that the integrated Disciplinary Tribunal will ordinarily determine matters on the papers and material before it. Only in circumstances where the Disciplinary Tribunal considers it necessary or appropriate, or on application by either the Participant or ASXMS (and then only at the Disciplinary Tribunal's discretion), will a formal hearing be conducted requiring the attendance of the parties in person.
29. Disciplinary Tribunal determinations on the papers, to a large extent, are expected to reduce the costs that Participants incur in respect of both preparing for and appearing before the Disciplinary Tribunal, as well as any additional costs and time that might be expended in the engagement of external legal representation.
30. To ensure the integrity of the disciplinary process, Participants will have the right and opportunity to make and lodge written submissions in all matters before the Disciplinary Tribunal.
31. The incorporation of a statement of penalty at Final Report stage, and in circumstances where the Disciplinary Tribunal finds a matter proved, enables the Disciplinary Tribunal to finalise a matter at the one hearing. This avoids the need for further submissions from the parties, or for the Disciplinary Tribunal to be specifically re-convened at a later date to consider and decide on sanction.
32. The integrated disciplinary process is expected to operate in a timelier and more efficient manner than the current ASX disciplinary process, and it is expected that the current timeframes for the completion of matters will be significantly reduced.



Maintenance of Procedural Fairness Provisions

33. The integrated Disciplinary Tribunal will be an industry 'peer review' body to ensure industry relevance, confidence and independence.
34. The 'Show Cause' letter replaces the current Draft Disciplinary Report for ASX Participants and the Notice of Allegation letter for SFE Participants. The 'Show Cause' letter will provide Participants with a specific indication of the relevant conduct of concern and the key investigation issues. Further, in many cases, the issue of a 'Show Cause' letter earlier in the investigative process will enable Participants to more appropriately respond to the issues raised.
35. Participants are fully informed as to both the substantive matters alleged and on ASXMS's position on sanction at the time the matter is lodged with the Disciplinary Tribunal.
36. Participants will be provided with the opportunity to make written submissions in respect of the Final Report in all matters which are lodged with the Disciplinary Tribunal.
37. The Final Report will provide SFE Participants with greater certainty as to the allegations and facts in issue. SFE Participants will be provided with the Final Report and given the opportunity to make submissions to the Disciplinary Tribunal in respect of the matters raised in the Final Report.
38. The appeal rights vested in the current ASX disciplinary processes are to be adopted and incorporated within the integrated disciplinary model. Participants will be provided with a right of appeal to the Disciplinary Appeals Tribunal which will conduct a merits review of the decision of the Disciplinary Tribunal at first instance. The Disciplinary Appeals Tribunal does not conduct a new hearing *per se* or receive new evidence. Appeals will ordinarily be considered and determined on the papers and following the receipt of submissions from the parties.

SUMMARY

39. The key benefits of the integrated disciplinary model include:
- The establishment of an integrated Disciplinary Tribunal.
 - Regulatory burden reduced:
 - requirement of attendance at formal oral disciplinary hearing removed; and
 - implementation of a streamlined uniform disciplinary process.
 - Improved efficiency and reduction in compliance costs:
 - uniform disciplinary process and framework incorporated for all matters;
 - Disciplinary Tribunal review to be paper-based;
 - formal disciplinary hearings requiring attendance of the parties to be conducted on an exceptions basis; and
 - reduction in costs and time associated with the preparation and attendance at formal disciplinary hearings, as well as any additional costs and time that might be expended in engaging external legal representation.
 - Maintain procedural fairness:
 - the issue of 'Show Cause' letter to Participants earlier in the investigative process enables Participants to more appropriately respond to issues;
 - single independent 'peer review' Tribunal ensures industry relevance and confidence;
 - Disciplinary Tribunal members hearing matters are to be drawn from a Tribunal Panel comprised of industry representatives;
 - Participants are provided with the opportunity to make submissions in all disciplinary matters before the Disciplinary Tribunal; and
 - rights of appeal are maintained.



Transitional Arrangements

40. Transitional arrangements will be put in place to ensure certainty as to carriage and finalisation of existing disciplinary matters as at the time of the effective commencement of the new integrated disciplinary process.

Non-Disciplinary Appeal Processes

41. The Appeals Tribunal will also deal with non-disciplinary appeals from management decisions that are set out in the relevant operating rules. For example, Warrant Committee appeals pursuant to ASX Market Rule 10 and Dispute Governors Committee appeals regarding error trades pursuant to ASX Market Rule 15.

No substantial changes to the actual appeal processes are planned however, as many of the procedures are identical across the various operating rules, an integrated rulebook will enhance uniformity and provide clarity of the various appeals available.

Appeals pursuant to the ASX Listing Rules will not be dealt with in the integrated rulebook and will remain within the ASX Listing Rules.

The proposed structure of the new rulebook is set out in **Annexure 'C'**.

Request for Comment

42. The deadline for comment is 16 May 2007.

Comments should be sent to:

ASX Regulatory & Public Policy Unit
Level 7,
20 Bridge St
Sydney NSW 2000

regulatorypolicy@asx.com.au

Telephone queries: 02 9227 0844

ANNEXURE 'A'

COMPARISON TABLE

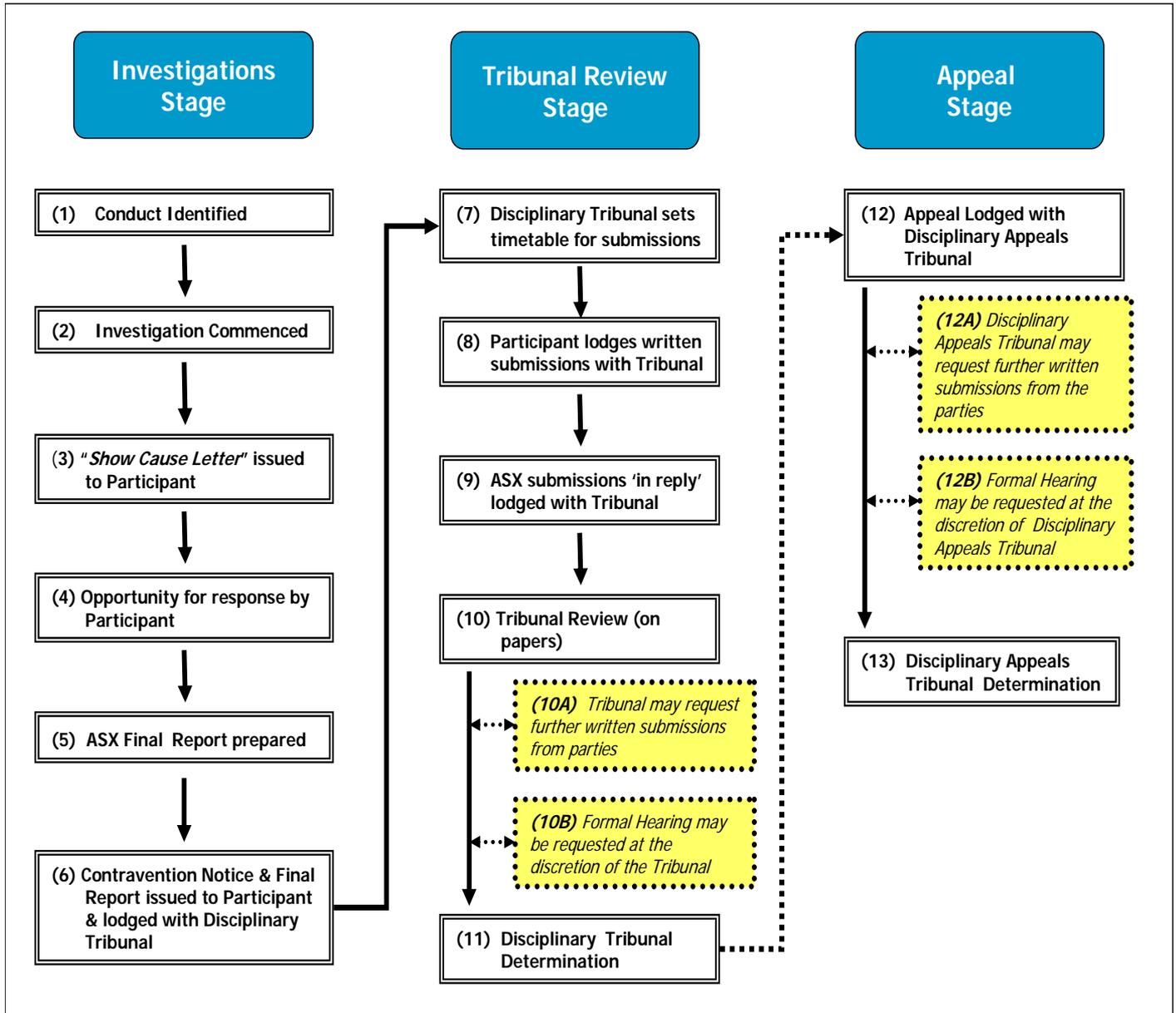
Step	Integrated Disciplinary Process	Current SFE Processes	Current ASX Processes
(1)	Conduct Identified	Conduct Identified	Conduct Identified
(2)	Investigation - Information Gathering & Analysis	Investigation – Information Gathering & Analysis	Investigation – Information Gathering & Analysis
(3)	Preliminary View Formed <ul style="list-style-type: none"> ▪ <i>Show Cause</i> Letter detailing alleged rule contravention/s sent to Participant for response. 	Preliminary View Formed <ul style="list-style-type: none"> ▪ <i>Allegation Letter</i> sent to Participant for response to matters alleged 	Preliminary View Formed <ul style="list-style-type: none"> ▪ Detailed <i>Draft Disciplinary Report</i> prepared and sent to Participant for opportunity to respond to report.
(4)	Response/Reply Received from Participant <ul style="list-style-type: none"> ▪ A Final Report is prepared where a decision has been made to refer a matter to the Disciplinary Tribunal. 	Response/Reply Received from Participant	Response/Reply Received from Participant
(5)	Final Report Finalised	Business Conduct Committee (BCC) or Market Practices Committee (MPC) Paper/Report Finalised	Final Disciplinary Report Finalised
(6)	Formal Lodgement of Final Report with Disciplinary Tribunal <ul style="list-style-type: none"> ▪ A Final Disciplinary Report (incorporating ASXMS position on penalty) and Contravention Notice is issued to the Participant and lodged with the Disciplinary Tribunal. 	Committee Paper/Report lodged with MPC or BCC	Formal Lodgement of Final Disciplinary Report with Disciplinary Tribunal
(7)	Hearing Timetable set by Disciplinary Tribunal	Scheduled Hearing Dates for BCC or MPC	Hearing Timetable set by Disciplinary Tribunal
(8)	Lodgement of Written Submissions by Participant	Under the current SFE Process, this step would occur at point 4	Lodgement of Written Submissions by Participant

CONTINUED

(9)	<p>Lodgement of Written Submissions ‘in Reply’ by ASXMS</p> <ul style="list-style-type: none"> ASXMS limited to submissions ‘in-reply’ only. 	<p>Under the current SFE Process, this step would occur at point 5.</p>	<p>Lodgement of Written Submissions by ASX followed by the lodgement of Written Submissions ‘in reply’ by Participant</p>
(10) (10A) (10B)	<p>Disciplinary Tribunal Review (Review on Papers)</p> <ul style="list-style-type: none"> Comprised of 3 or more peer Tribunal Panel members drawn from “peer” panel. <p><u>Optional:</u></p> <p><i>At its discretion the Disciplinary Tribunal may request further written submissions from ASXMS and Participant; and/or</i></p> <p><i>At its discretion the Disciplinary Tribunal may request that a formal hearing be conducted requiring the attendance of the Participant and ASXMS.</i></p>	<p>BCC or MPC Convened</p> <ul style="list-style-type: none"> Usually conducted in the absence of the Participant. SFE representatives in attendance at hearing. Discretion of BCC or MPC as to whether the Participant attends hearing. Legal Representation for Participant at discretion of BCC or MPC. MPC has 7 members/BCC has 5 members (quorum of half the members is required). 	<p>Disciplinary Tribunal Hearing</p> <ul style="list-style-type: none"> Formal hearing unless otherwise agreed by the parties to be determined on the papers. Both ASX and the Participant represented at hearing. Legal Representation permitted Disciplinary Tribunal is constituted of approximately 32 panel members of whom three are drawn from the panel to hear matters.
(11)	<p>Determination of the Disciplinary Tribunal</p>	<p>BCC or MPC Determination</p>	<p>Disciplinary Tribunal Determination</p>
(12)	<p>Right of Appeal</p> <ul style="list-style-type: none"> Right of Appeal to Disciplinary Appeals Tribunal against Disciplinary Tribunal decision and/or penalty. Lodgement of appeal within 10 business days. 	<p>Right of Appeal</p> <ul style="list-style-type: none"> Matters heard by MPC appealed to BCC OR matters heard by BCC appealed to the Board. Right of Appeal in respect of liability and/or penalty. Lodgement of Appeal within 10 business days of receipt of initial decision. 	<p>Right of Appeal</p> <ul style="list-style-type: none"> Rights to appeals to the Appeals Tribunal against liability and/or penalty. Lodgement of Appeal within 10 business days of receipt of decision.
(13)	<p>Disciplinary Appeals Tribunal Decision</p> <ul style="list-style-type: none"> Disciplinary Appeals Tribunal is comprised of the Chair of the Disciplinary Appeals Tribunal and two or more other members of the Tribunal panel who were not involved in the initial hearing. Appeal review on the merits of the original decision. 	<p>Decision of MPC/BCC</p> <ul style="list-style-type: none"> Further right of appeal to the relevant Appeal forum exists. 	<p>Decision of Appeals Tribunal</p> <ul style="list-style-type: none"> Appeals Tribunal is comprised of the Chair of the Appeals Tribunal and two other members of the Tribunal panel not involved in the initial hearing. Appeal review on merits of the original decision.

ANNEXURE 'B'

INTEGRATED DISCIPLINARY MODEL FLOWCHART





ANNEXURE 'C'

PROPOSED STRUCTURE AND PROCESSES FOR THE AUSTRALIAN SECURITIES EXCHANGE DISCIPLINARY AND APPEALS RULEBOOK

It is proposed that a single Australian Securities Exchange rulebook is created covering the disciplinary and appeals processes which apply across the different licensed entities in the ASX Group.

Existing Operating Rules

The existing rulebooks will largely have deletions made to them with most of that content being transferred to the new rulebook.

Some rewriting may need to occur in the SFE rulebooks to account for the proposed deletion of the Business Conduct Committee and Market Practices Committee.

As the rules will be drafted so that the various entities can make determinations/procedures about processes, rather than setting them out in the rulebook, a substantial rewrite will also be required of the determinations/procedures and guidance notes.

Proposed New Rulebook Structure

Section	Title	Comments
1	Scope of Rule Book	Sets out that the rulebook applies to each of the licensed markets and facilities operated by entities within the ASX Group and sets out definitions.
2	Disciplinary Proceedings	Applies to disciplinary tribunal hearings across all rulebooks. Section 2 is substantially similar to the existing ASX Market Rule 28.
3	Appeal Proceedings	Applies to all appeals from the Disciplinary Tribunal and all other appeals such as refusal to admit applicant, suspensions, terminations etc. Sets out the standard processes for an appeal. The following sections 4 – 9 will set out appeal processes that are exceptions to the general appeal processes. Section 3 is substantially similar to the existing appeal provisions within ASX Market Rule 28.

4	Appeals Specific to ASX	<p>Applies to non-disciplinary appeals from the Warrants Committee (ASX MR 10) and the Dispute Governors'/ASX decisions (ASX MR 15).</p> <p>This section will contain the reduced timeframes for convening the Appeal Tribunal and any alternate process (albeit the rules will be as flexible as possible so that time frames and processes can be changed and set out in the Procedures).</p>
5	Appeals Specific to ACH	None determined
6	Appeals Specific to ASTC	Applies to appeals from revocation of approval of issuer's financial products or suspension of issuers' financial products (ASTC Rule 8).
7	Appeals Specific to SFE	Appeals from Trading Manager decision under SFE Rule 1.14
8	Appeals Specific to SFEC	None determined
9	Appeals Specific to Austraclear	None determined