

Rule Decision Complaints Policy



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ASX has published [rules](#) approved by the Australian government that regulate the financial markets and clearing and settlement facilities operated by ASX in Australia. Those rules confer on ASX the power to make decisions on a wide variety of matters. This document outlines the circumstances in which ASX will accept and act on complaints about decisions it has made under its rules, and ASX's process for handling those complaints.

What is a complaint about a rule decision?

ASX defines a 'complaint about a rule decision' as:

An expression of dissatisfaction made to ASX related to a decision ASX has made under its rules¹ that is not made in, or connected to, a report of misconduct² or an ASX benchmark³.

What considerations does ASX take into account when making a decision under its rules?

In making a rule decision, the primary considerations to which ASX will have regard are:

- its legal obligations:
 - to the extent that it is reasonably practicable to do so, to do all things necessary to ensure that its markets are fair, orderly and transparent and the services of its clearing and settlement facilities are provided in a fair and effective way
 - to the extent that it is reasonably practicable to do so, to comply with the Reserve Bank of Australia's Financial Stability Standards and to do all other things necessary to reduce systemic risk, and
 - to have adequate arrangements for enforcing compliance with its rules
- ASX's assessment of the impact of the decision on the integrity of ASX's markets and clearing and settlement facilities, and
- in the case of the listing rules, the principles on which those rules are based, as outlined in the introduction to the listing rules.

ASX will also have regard to:

- the impact of its decision on any listed entity, investment product issuer or participant directly affected by the rule decision
- the impact of its decision on innocent third parties (for example, the investors in a listed entity or an investment product, or the customers of a participant), and
- the desirability of certainty in decision-making under ASX rules and the importance of decisions being made on a consistent basis and in accordance with ASX's published guidance,

but these are secondary considerations and, where there is a conflict between these considerations and the primary considerations above, the primary considerations will take precedence.

¹ ASX also has a [Customer Complaints Policy](#) that covers complaints made to ASX about ASX's products or services, the conduct of an ASX employee towards a customer, or the handling by ASX of a customer complaint. A complaint about a rule decision falls outside the scope of ASX's Customer Complaints Policy and will be dealt with in accordance with this policy rather than ASX's Customer Complaints Policy. This applies even where the complaint is made by an ASX customer. This is because the primary considerations to which ASX must have regard when making decisions under its rules are the regulatory and reputation issues mentioned in this policy, rather than the individual interests of a customer affected by a rule decision.

² ASX defines a 'report of misconduct' as a complaint, tip-off or other communication alleging that an entity subject to ASX rules has breached those rules or engaged in some other form of misconduct. Reports of misconduct are handled in accordance with ASX's [Reports of Misconduct Policy](#), rather than this policy. This applies even where the report of misconduct includes an express or implied complaint about a decision ASX may have made under its rules in relation to the misconduct.

³ ASX defines a 'benchmark complaint' as an expression of dissatisfaction made to ASX related to its role as a benchmark administrator where a response or resolution is expected. Benchmark complaints are handled in accordance with ASX's [Benchmark Complaints Policy](#), rather than this policy. This applies even where the benchmark complaint includes an express or implied complaint about a decision ASX may have made, or not made, under the rules relating to that benchmark.

Is there a right to appeal ASX rule decisions?

The ASX Enforcement and Appeals Rulebook⁴ confers on:

- a participant, the right to appeal:
 - various enforcement decisions by ASX, including decisions to issue an enforcement notice to the participant or to suspend or terminate its participation in a market or clearing and settlement facility, and
 - a decision to cancel or not cancel trades under specified rules giving ASX the power to cancel market trades in certain circumstances, and
- an investment product issuer, the right to appeal enforcement decisions connected with a breach of its market liquidity obligations.

Participants and investment product issuers who wish to exercise these rights of appeal must follow the appeal processes set out in the ASX Enforcement and Appeals Handbook which can be located on ASX's website or accessed via the below link:

<https://www.asx.com.au/about/regulation/rules-guidance-notes-and-waivers/asx-enforcement-and-appeals-rulebook>

For all other parties affected by an ASX rule decision there is no provision in the ASX rules to formally appeal a rule decision with the ASX. This reflects the fact that ASX's decisions under the rules are for ASX to make, having regard to the considerations set out above.

How do I make a complaint about a rule decision?

For legal and other reasons, ASX requests that all complaints about ASX rule decisions are made through ASX's online facility for lodging complaints at:

<https://www.asx.com.au/about/contact-asx/customer-feedback>

Can I make an anonymous complaint about a rule decision?

No. Given the range of parties who could be affected if ASX changes a rule decision, ASX will not accept or act on an anonymous complaint about a rule decision.

Will my privacy be respected?

Yes. ASX will not disclose the personal information you provide in a complaint about a rule decision to any third parties outside ASX unless: (1) ASX considers it reasonably necessary to do so in order to act on your complaint, (2) ASX is required or authorised by law to do so, or (3) you consent to the disclosure.

[ASX's Privacy Statement](#) has further details on how ASX handles personal information and your rights in relation to your personal information held by ASX.

Will ASX respond to my complaint and when?

You will not receive a response to your complaint if you do not provide a valid email address, or you specify in your complaint that you do not wish to receive any communications from ASX in relation to it.

Otherwise, you will receive an email from ASX acknowledging receipt upon the successful submission of your complaint through ASX's online facility.

We will review your complaint and if we need more information from you we will get in touch with you to ask for that information.

Aside from that, you should not expect to receive any further communications from ASX about your complaint. If ASX considers that information on the matters raised should be made public, it will publish, or require the relevant ASX-regulated entity to publish, an announcement to the market with that information.

⁴ The Rule Book deals with the powers, processes and procedures for dealing with contraventions of the Operating Rules by participants, issuers or other facility users, and appeals against certain decisions ASX may make against participants, issuers or other facility users, in relation to the operation of its licensed markets and facilities.

What if I'm not satisfied with ASX's handling of my complaint?

If you are not satisfied with ASX's handling of a complaint about a rule decision, you can make a complaint to ASX's regulator, the Australian Securities Investments Commission:

W <https://asic.gov.au/about-asic/contact-us/how-to-complain/report-misconduct-to-asic/>

T 1300 740 895

P The Complaints Officer
Australian Securities and Investments Commission
GPO Box 9827
MELBOURNE VIC 3001

In addition, if you consider that ASX's rule decision involves a failure by ASX to enforce its rules, you may be able to obtain a court order under section 793C or 822C of the Corporations Act directing ASX to rectify that failure. You should take your own legal advice on the prospects of success in, and the likely costs of, legal action seeking such an order.