



Asia Pacific Stock Exchange Limited

*Bridging Australian and Asian Capital Markets*

**APX SUBMISSION**

**TO ASX CONSULTATION PAPER**

**CLEARING AND SETTLEMENT SERVICES FOR**  
**APPROVED MARKET OPERATIONS AND APPROVED**  
**LISTING MARKET OPERATORS:**

**Enhanced Service Levels and Information Handling Standards**

10 March 2014



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## Disclaimer

The views expressed in this submission are intended to reflect the collective view of APX. However, no representation or warranty is given that either the author or individual APX office holders, consultants or employees subscribe to each of the views herein described.

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### **Contacts:**

For further information regarding this submission, please contact:

**Mr David Lawrence**

Chief Operating Officer

Asia Pacific Stock Exchange Limited

Email [david.lawrence@apx.com.au](mailto:david.lawrence@apx.com.au)

Telephone +61 (02) 9215 2840



## BACKGROUND

Asia Pacific Stock Exchange Limited (APX) is a fully owned subsidiary of AIMS Financial Group.

APX is seeking to provide an enhanced post-trade solution for its securities and managed investment funds Cash market and its planned Derivatives market.

APX operates a listings and trading Cash market in securities under an Australian market licence for a market in securities and managed investment products, with wholesale and retail participation with approved compensation arrangements available.

APX will, in due course, be seeking an Australian market licence variation for a market in derivatives, with wholesale and retail participation with approved compensation arrangements available. APX plans to offer derivatives that are innovative and largely not catered for by the existing exchanges in Australia.

In foreshadowing the possible range of derivatives, APX is aware that other exchanges may be interested in offering similar products to those that APX is planning. While that could be the commercial imperative of other exchanges, APX is looking broadly at the regulatory landscape, stakeholders and public interest in diversity and APX seeks to further offer products that will enhance the internationalization of the Renminbi (RMB) with Australia becoming a RMB hub.



## APX'S COMMENTS

### Removal of annual service fee

APX notes that ASX is proposing to remove the annual service fee for the use of the Trade Acceptance Service. We also note that the removal of the annual service fee will remain in force “while the Code of Practice and the policy decision to defer any consideration of any licence application from a competing central counterparty for the clearing of cash equities remains in place” (the “clearing moratorium”).

We accept that once the clearing moratorium concludes, if there is one or more competing central counterparties for the clearing of cash equities, then pricing should also be competitive. However, we are concerned that, once the clearing moratorium concludes if there is no competing central counterparties for the clearing of cash equities, then the annual service fee will be re-introduced with no assurance as to pricing or control over pricing. Hence, our response to the expressions of interest in a Trade Acceptance Service for ALMO-Listed and approved financial products is tempered by this concern.

Whilst we note that ASX is proposing to remove the annual service fee for the use of the Trade Acceptance Service, ASX is not proposing to remove the annual service fee from the settlement facilitation service (referred to as the “annual contribution fee” in the transfer service fee schedule). At present those annual fees comprise a CHES Infrastructure Support fee for cost recovery of the sunk costs expended by APX as part of the “CHES Phase 1 per DvP build” and an ASX Settlement Licence Compliance fee which together are a minimum of \$7,500.

As ASX has reviewed the annual Trade Acceptance Service fee “in the context of the current market structure for clearing and settlement”, we question why ASX has not arrived at the same position in relation to the annual fees for the settlement facilitation service “consistent with the outcomes of a competitive market (and ASX Clear and ASX Settlement’s licence obligations)”.



In relation to the components of the annual service fees themselves, we note that in its submission to the Financial System Enquiry (the “Wallis Enquiry”) the Securities and Exchange Guarantee Corporation (“SEGC”) stated as follows:

“Recently, the most significant payments to SIDA have been made for funding the development of CHES (Clearing House Electronic Subregister System). CHES provides:

- electronic transfer and registration of quoted securities (Phase I, implemented in 1994);
- settlement of market transactions in cleared funds (Phase II, the Delivery versus Payment phase, implemented progressively between April and August 1996); and
- the capacity to achieve T+3 settlement in the future.”<sup>1</sup>

We query whether the reference to CHES Phase 1 and CHES DvP in the SEGC submission is a reference to the same “CHES Phase 1 per DvP build” cost which ASX is now recovering. If so, we query why ASX is now recovering costs previously funded by the SEGC rather than by ASX?

In relation to the ASX Settlement Licence Compliance fee, we submit that the compliance costs of operating a commercial clearing and settlement facility in a competitive environment would ordinarily be a cost of ASX doing business, not an itemized cost incurred by clients such as APX and other market operators.

Consistent with the outcomes of a competitive market (and ASX Clear and ASX Settlement’s licence obligations) we submit that ASX should remove all annual fees for access to the settlement facilitation service. To retain the fees is inconsistent with ASX’s stated position in relation to the annual service fee for the use of the Trade Acceptance Service and, by ASX’s own analysis, potentially inconsistent with ASX Clear and ASX Settlement’s licence obligations.

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<sup>1</sup> <http://www.fsi.treasury.gov.au/content/downloads/PubSubs/000192.doc>



## **Expressions of interest in a Trade Acceptance Service for ALMO-Listed and approved financial products**

APX is interested in the utilisation of clearing and settlement arrangements as an “ALMO” whereby ASX provides a Trade Acceptance Service. APX is interested in a post-trade service all along the value chain of centralized counterparty clearing, settlement, and custody.

The Trade Acceptance Service which APX requires is more akin to the ALMO service which ASX Clearing currently provides to ASX than it is to the AMO service which ASX Clearing currently provides to Chi-X. The reason for the difference is that APX, as a listing market, requires the same new listee establishment, new security establishment and corporate actions functionalities as currently provided to ASX. Chi-X, which is not a listing market, does not require new listee establishment, new security establishment and corporate actions functionalities. The failure of ASX Clearing to identify the differences between AMOs and ALMOs and to offer services accordingly suggests that ASX Clearing has not fully appreciated those differences and the nature of the competitive market in which market operators now operate. It also suggests that ASX Clearing is responding to the new competitive landscape either reactively rather than pro-actively or is responding in the interests of ASX as a market operator.

In the interests of both equality of service and to reduce risks of a disorderly market arising, APX should be offered the same straight through processing capability for (at least) new listee establishment, new security establishment and corporate actions functionalities as that provided to ASX.

APX submits that, in the interests of equality, ALMOs such as APX should have identical access, in both form and substance, to that of ASX. ASX has flagged the possibility of connectivity using an API connection to CORE (page 6 of 17) and APX would be interested in exploring a similar solution. Any variation from such equality of access serves to highlight that ALMOs are treated differently to ASX. Hence, to the extent that ASX has straight through processing capability with CHES for the establishment and maintenance of listees and for the recording of trading obligations and identical straight through processing capability is not provided to other ALMOs, the inequality of access is highlighted.



ASX has flagged that it connects using an API connection to CORE. Equality of access suggests that APX should similarly be offered identical access via an API connection to CORE. APX acknowledges that ASX has put in place certain reporting measures under the Code of Practice. APX would like to see an independent external assessment on the equality of access to clearing and settlement services provided by ASX. The scope of such an assessment should include, but not be limited to, factors such as system access architecture and performance; system access pricing; resource allocation and prioritization for maintenance and development; and information handling standards.

APX is also seeking the ability of a C&S facility to clear and settle equity securities transactions in Renminbi (RMB) in addition to Australian Dollars. APX is less inclined to adopt a Trade Acceptance Service for AUD only as to do so will require clearing and settlement of APX trades through two C&S facilities. If RMB capability is going to be provided, APX is interested to know how soon this RMB capability would be available from ASX Clear.

### **Extending beyond equities clearing**

**APX seeks ASX's response regarding their interest in developing and providing a similar Derivatives Trade Acceptance Service for APX (or other Derivatives market licenced operator).**

If a Derivatives Trade Acceptance Service is going to be provided, APX is interested in how soon such a service for a derivatives market would be available for alternative derivatives market operators.

APX is seeking the ability of the C&S derivatives facility to clear and settle derivatives in Renminbi (RMB) denomination in addition to Australian Dollars. If this capability is going to be provided, APX is interested in how soon a RMB denominated derivatives clearing facility capability would be available from ASX Clear.

### **Information handling standards**



APX presently utilizes the ASXS Settlement Facilitation Service. Whilst APX acknowledges and welcomes the measures for protection of confidential information which ASX is adopting as outlined in the consultation paper, the very fact that ASX has to establish such procedures again highlights the conflicts which exist in the current provision of ASX clearing and settlement services and the potential inequality of access and prioritization of resources in relation to clearing and settlement services provided by ASX.

In order to resolve the inherent conflicts and tensions existing in the current ASX vertically integrated business model (of which the information handling standards are but one manifestation), especially in the absence of competition, APX suggests that the ASX clearing and settlement services should be spun off from ASX and separately managed in a manner in which ALMOs and AMOs are all treated as equal and independent customers.