



ASX 24 and ASX Clear (Futures) – Change to position reporting framework and review and refresh of operating rules

**Proposed amendments to:
ASX 24 Operating Rules and
Procedures and ASX Clear
(Futures) Operating Rules and
Procedures**

May 2024



Invitation to comment

ASX is seeking submissions in response to this consultation paper by Friday 12 July 2024.

Submissions should be sent to: participants.compliance@asx.com.au

If you would like your submission, or any part of it, to be treated as confidential, please indicate this clearly in your submission. ASX may publish the non-confidential submissions it receives in whole or on a summary basis. Where a submission, or part thereof, is marked confidential ASX will consider publishing the content on a summarised and anonymous basis. Where ASX is required by a regulator or otherwise required by law to produce a submission it has received, ASX will use its best endeavours to advise the submitter ahead of the production of the submission.

ASX is available to meet with interested parties for bilateral discussions on these matters.

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Introduction

Overview

The purpose of this consultation is to obtain feedback on proposed amendments to the ASX 24 Operating Rules and Procedures (**ASX24OR**) and ASX Clear (Futures) Operating Rules and Procedures (**ASXCFOR**) that relate to:

- the reporting of Open Positions in ASX 24 Derivatives Market Contracts (and related changes); and
- the five year review and refresh of the ASX Clear (Futures) Operating Rules and Procedures.

The key amendments ASX proposes to make to the rules and procedures are outlined in this Consultation Paper and available below:

- [Amendments to the ASX 24 Operating Rules and Procedures](#)
- [Amendments to the ASX Clear \(Futures\) Operating Rules – Futures Rules and Procedures](#)
- [Amendments to the ASX Clear \(Futures\) Operating Rules – OTC Rules and Handbook](#)

A table summarising these proposed rule and procedure amendments is available [here](#).

ASX also proposes to issue guidance to participants on their position management obligations under the ASX Clear (Futures) Operating Rules. The draft guidance is available [here](#).

Responses to this Consultation Paper should be submitted to ASX by Friday 12 July 2024.

A separate consultation covering the review and refresh of the operating rules and procedures of ASX Clear, ASX Settlement and Austraclear is available [here](#).

Proposed amendments to the reporting framework for Open Positions in ASX 24 Derivatives Market Contracts (and related changes)

ASX has reviewed the current rule framework and operational processes in respect of reporting of Open Positions in ASX 24 Derivatives Market Contracts (**Position Reporting**). As a result of the review ASX is consulting with stakeholders on proposed changes to the Position Reporting framework which are intended to enhance ASX's regulatory oversight of the ASX 24 market and ASX Clear (Futures) facility, and provide Clearing and Trading Participants with clarity on ASX's minimum requirements and expectations.

The most significant effects of the proposed rule changes ASX is consulting on are as follows:

- the obligation for providing Daily Beneficial Ownership Reporting (DBOR) data to ASX will be transferred from Trading Participants to Clearing Participants;
- Trading Participants will be able to provide Beneficial Owner information (and as required DBOR Controller information) directly to ASX, if the Trading Participant determines it is prohibited from providing this information to its Clearing Participant; and
- ASX's expectations around exceptions to Beneficial Owner reporting will be clarified, particularly in respect of Confidential Accounts and Suspense Accounts.

ASX is also taking this opportunity to:

- re-assign rule obligations so that Clearing Participants assume responsibility for Allocations and Designations and to align the timing with global standards;
- clarify the rules applicable to Clearing Participants on the daily close-out of matched positions to align with ASX's expectations;
- transfer position and exercise limits from the ASX24OR to the ASXCFOR; and
- transfer the Clearing Guarantee from the ASX24OR to the ASXCFOR and clarify that it cannot be withdrawn without the approval of ASX Clear (Futures).

These amendments are explored in more detail in sections 1.1 - 1.7 of this Consultation Paper.

Review and refresh of ASX Clear (Futures) Operating Rules

The RBA's September 2019 Assessment of the ASX Clearing and Settlement Facilities (**ASX CS facilities**) recommended that ASX periodically review the ASX CS facilities' operating rules and procedures to ensure that these are clear, understandable and consistent with industry standards and market protocols. In response to this recommendation, ASX established a clearing and settlement rules review and refresh process on a five year cycle comprising guiding principles and a program of work. The rule and procedure amendments proposed in this consultation are one part of that program of work and ongoing review.

In reviewing the operating rules and procedures of all of the ASX CS facilities (including ASX Clear (Futures)) ASX has used a number of guiding principles including:

- Benchmarking new and existing rules and procedures against peers and industry standards (where appropriate).
- Considering feedback from participants in relation to rules and procedures that could benefit from greater certainty and clarity.
- Identifying existing processes embedded in the rules that could be improved.
- Aligning the rules and procedures across the ASX CS facilities (where appropriate).

The amendments proposed as part of this ongoing work relate to the key themes outlined in sections 2.1 – 2.5 of this Consultation Paper.

1. Proposed amendments to the reporting framework for Open Positions in ASX 24 Derivatives Market Contracts (and related changes)

1.1. Transfer of Position Reporting obligation from Trading Participants to Clearing Participants

ASX proposes to transfer the obligation to provide DBOR data from Trading Participants to Clearing Participants. The transfer of this obligation will formalise the existing market practice, which despite the obligation currently resting with Trading Participants, is for Clearing Participants to report Open Positions to ASX. This practice has developed on the basis that the Open Position resides with the Clearing Participant. Transferring the reporting obligation to Clearing Participants also better aligns with other obligations already required of Clearing Participants regarding the management of positions including position net downs and risk management activities (for example, business continuity arrangements). Trading Participants will be required to provide all information necessary to enable a Clearing Participant to comply with their Position Reporting obligations except where the Trading Participant is prevented from revealing the identities of the beneficial owners and/or controllers of the Open Positions to its Clearing Participant. In those circumstances, the Trading Participant may seek the Market Operator's consent to provide the Position Reporting directly to the Market Operator.

Key Rules and Procedures:

ASX Clear (Futures) – FR 46A (Position Reporting) and Procedure

ASX 24 – Rule [4840] (Position Reporting) and Procedure

1.2. Exceptions to Beneficial Owner reporting

Where a Clearing Participant does not have line of sight to the Beneficial Owner of Open Positions in a Pooled Account (formerly an ‘Omnibus Account’) or a Unique Account (formerly an ‘Individual Account’) due to commercial sensitivities, the Clearing Participant may report such accounts as Confidential Accounts, however, they will have to satisfy new requirements in order to do so. Specifically a Clearing Participant will need to:

- have a client request detailing why the exception is necessary and acknowledging that the client is required to provide the Beneficial Owner(s) (and where applicable DBOR Controller) details to ASX Clear (Futures) upon request; and
- identify Confidential Accounts in their DBOR reporting.

ASX also proposes to clarify the use of Suspense Accounts. Where Open Positions cannot be allocated to a suspense account in the name of the client, they must be allocated to a House suspense account to ensure that client segregation is maintained. All suspense accounts must be clearly identified as Suspense Accounts. These proposals will support ASX’s monitoring of the use of Suspense Accounts.

Key Rules and Procedures:

ASX Clear (Futures) – FR 1.1 (Definitions); FR 46A (Position Reporting) and Procedure

ASX 24 – Rule [4840] (Position Reporting) and Procedure

Questions for consultation:

1. If Clearing Participants are required to obtain client instructions to support continued reporting of Confidential Accounts, how long should the transition period be? Please include the rationale to support your expected timeframe.
2. What processes will Clearing Participants need to have in place to be able to identify and notify ASX on Confidential Accounts?
3. If Clearing Participants are required to update reporting to ASX to identify Confidential Accounts, how long should the transition period be?
4. Please provide details of any challenges that you expect Clearing Participants may face in relation to the proposed changes to the operation of suspense accounts, specifically where Open Positions must be allocated to a House suspense account if not able to be reported in the name of the client.

1.3. Provision of DBOR Controller and Legal Entity Identifiers

ASX proposes to introduce a new definition, DBOR Controller. DBOR Controller will be used to identify an account that is operated under the discretion of a party that is not the Beneficial Owner, to assist ASX in performing its monitoring. Clearing Participants will be required to provide the details of the DBOR Controller (where applicable) in a separate field to the Client Name in the DBOR reporting.

ASX is also proposing to introduce a requirement to provide the Legal Entity Identifiers (“LEI”) of the Beneficial Owner and DBOR Controller (where applicable) unless they are individuals. This will assist ASX to monitor against position limit requirements and concentration.

Key Rules and Procedures:

ASX Clear (Futures) – FR 1.1 (Definitions); Procedure 46A (Position Reporting)

Questions for consultation:

1. What challenges do you expect that Clearing Participants may face in relation to the identification of a DBOR Controller or a Beneficial Owner?
2. If Clearing Participants are required to update client records to identify and include the DBOR Controller and/or Beneficial Owner in daily DBOR reporting, how long should the transition period be? Please include the rationale to support your expected timeframe.
3. If Clearing Participants are required to update reporting requirements to include LEIs, how long should the transition period be? Please include the rationale to support your expected timeframe.

1.4. Daily Close-Out

To simplify naming conventions, ASX proposes to change the terms used to describe the account types, introducing 'Unique Account' (currently referred to as an 'Individual Account'), Pooled Accounts (currently referred to as an 'Affiliated Account' and commonly known as an 'Omnibus Account') and 'Secondary Account' (currently referred to as a 'Sub-account'). The current terms are used to refer to other requirements within the ASX rule books, so this new terminology aims to reduce potential confusion and provide consistency across rule books and obligations.

ASX is also taking steps to clarify in the Procedures its expectations around the management of Back-to-Back Open Positions that are maintained throughout the life of the contract and how those positions must be managed post expiry. Specifically, where a Back-to-Back Open Position is held during the life of the contract, it must remain in this structure post expiry. It must not be net down prior to mandatory settlement and a Clearing Participant must not enter its own Mandatory Cash Settlement price, prior to ASX Clear (Futures). This will ensure that Open Interest data remains transparent and reliable through to mandatory cash settlement and that accounts operating Back-to-Back positions are treated the same as those accounts that are required to net down throughout the life of the contract.

ASX also proposes to introduce a notification requirement where an internal transfer creates a change in Open Interest of 5% due to the close out of Back-to-Back position during the life of the contract. Notice to ASX will be required three (3) days prior to the internal transfer occurring. This will assist ASX to manage questions from regulators and other stakeholders about the reliability of Open Interest data where there may not be sufficient trading activity in the market to explain such a change.

Key Rules and Procedures:

ASX Clear (Futures) – FR 1.1 (Definitions); FR 46.1 (Daily Close-Out of Matched Positions) and Procedure; FR 46.5 (Exceptions to Daily Close-Out of Matched Positions (including Back-to-Back Open Positions) and Procedure

Questions for consultation:

1. ASX proposes to change the existing terminology used to describe account types to avoid confusion with similar terms already used in the ASXCFORs and external facing documentation. What challenges (if any) do Clearing Participants consider may arise from ASX changing the terminology?
2. Do Clearing Participants see challenges in meeting the three (3) day notification timeframe prior to completing an internal transfer that may result in a 5% change in Open Interest? If so, what are these challenges and are there other ways that this could be managed for the benefit of the market?

1.5. Changes to Allocations and Designations

ASX proposes to transfer the primary rule obligation to allocate and designate from Trading Participants to Clearing Participants. The transfer of this obligation will formalise the existing market practice which, despite the obligation currently resting with Trading Participants, is for Clearing Participants to allocate or designate as the trades have been novated and registered in their name. It also ensures that these key processes are supported by Clearing Participant business continuity arrangements. Where a Clearing Participant permits a Trading Participant to allocate on their behalf via an outsourcing arrangement, an obligation will also be imposed on Trading Participants to help to ensure that Clearing Participants meet their obligations.

ASX is also taking this opportunity to align allocation and designation times with global practices (the Derivatives Market Institute for Standards (“DMIST”)), recognising that Clearing Participants often require client instructions before they can finalise allocations. ASX is therefore proposing that rather than having a prescribed time in the morning by which allocations should occur, the requirement for Participants will be to promptly allocate or designate once that client instruction is received, where Exchange Systems are open/available.

Key Rules and Procedures:

ASX Clear (Futures) – FR 32 (Allocation and Designation of Contracts) and Procedure

ASX 24 – Rule [3708]-[3709] (Allocation by a Non-Clearing Trading Participant granted access to the Exchange System)

1.6. Position and Exercise Limits

ASX proposes to transfer the obligations relating to expiry position limits and exercise limits from Trading Participants to Clearing Participants. The transfer of this obligation will formalise the existing market practice which, despite the obligation currently resting with Trading Participants, is for Clearing Participants to monitor Open Positions on the basis that the Open Positions reside in their systems. It also ensures that these key processes are supported by Clearing Participant business continuity arrangements. ASX proposes to retain an obligation on Trading Participants do all things necessary to ensure that Clearing Participants can meet their obligations.

ASX is also taking the opportunity to clarify how it will manage an undesirable situation where the market user maintains Open Positions across multiple Clearing Participants and there are concerns regarding expiry position limits.

Key Rules and Procedures:

ASX Clear (Futures) – FR 46B (Position Limits) and Procedure; FR 46C (Exercise Limits) and Procedure; FR 46D (Restrictions on Exercise) and Procedure

ASX 24 – Rule [3400]-[3402] (Expiry Concentration Position Limits) and Procedure; Rule [3410]-[3412] (Exercise Limits) and Procedure; Rule [3420] (Restrictions on Exercise)

1.7. Clearing Guarantee

ASX proposes to transfer the pro-forma of the Clearing Guarantee from ASX24OR to ASXCFOR as it is the Clearing Participant that provides the guarantee and therefore the content of the guarantee should align with the entity executing it. ASX is also taking this opportunity to update the terms of the guarantee to remove the reference to it being unconditional and expressly acknowledge that the guarantee remains in effect until its withdrawal is accepted by ASX Clear (Futures). This latter change is being made to align with the rules of ASX Clear.

Further, ASX proposes to transfer the Grains Client Agreement terms from the ASX24OR to the ASXCFOR to align with other client agreement terms.

Key Rules and Procedures:

ASX Clear (Futures) – FR 11A (Clearing Guarantee) and Procedure; FR 65 (Grains Futures Contracts Delivery Procedures) and Procedure

ASX 24 – Procedure [1000(g)]; Appendix 1000(g)

2. ASX Clear (Futures) Operating Rules Review and Refresh: Key themes

The amendments proposed in this consultation relate to the key themes outlined below.

2.1. Reflecting current practice

Amendments are required to update the rules and procedures to reflect current practice (or practices that have evolved over time). These amendments have been identified as part of a ‘business review’ of the rules and procedures across the organisation. Examples include:

- **Replacing the Product Committee with a Product Working Group** - This entails the replacement of the detailed framework of the CCP Product Committee with a less prescriptive framework for a Product Working Group (refer FR 21 and Procedure). The Product Working Group is an existing forum that provide participants of ASX Clear (Futures) with transparency in the early development of new products and the opportunity to provide feedback without the additional burden that the existing Product Committee framework requires, such as the need for approval from ASX to participate, a Participant chair, a minimum number of attendees and voting rights. Feedback from the Product Working Group is already channelled back to Executive Management.
- **Updating times and processes that do not currently match the rules** - These changes include removing inconsistent times in the Schedules and deleting forms that are no longer part of ASX Clear (Futures)’ operational processes including, for example, the Notice of Exercise or Abandonment.

2.2. Enhancements to support continued compliance with the licence obligations of ASX Clear (Futures)

As a result of recent global benchmarking, default management fire drills and a review of clearability considerations ASX has identified several rule enhancements that it would like to make to support the continued compliance of ASX Clear (Futures) with its licence obligations. These include:

- introducing a new requirement for clearing participants to notify ASX Clear (Futures) of the contact details of their primary and secondary contacts responsible for their compliance with requirements under the Recovery Rules and any changes to those details (refer to FR 4.14(p) and Procedure). This is required so that the ASX CCPs have current contacts in the event that they need to call Recovery Assessments from clearing participants on an urgent basis. This new requirement will apply to ASX Clear’s participants too.
- introducing a new express power allowing ASX Clear (Futures) to sell a defaulter’s portfolio rather than auction or close out (refer to FR 72.1(ab)). This new power will apply to ASX Clear too.
- amending the existing power that ASX Clear (Futures) has (in FR 81.2) to take action or refrain from action or direct participants to take action or refrain from action if an undesirable situation or practice has developed, to expressly recognise that ASX Clear (Futures) may need to take action if an undesirable situation or practice develops that is contrary to the operation of fair and effective clearing and settlement facility or the reduction of systemic risk (in contravention of s821A(aa)-(a) of the Corporations Act 2001 (Cth)). This change aligns with existing powers that the

ASX market licensees have that recognise their obligation to maintain a fair, orderly and transparent market and is also reflected in the operating rules of other global CCPs.¹ This expanded power will apply to ASX Clear too.

- introducing a new requirement that participants provide ASX Clear (Futures) with any information that it reasonably requests within the time specified in the request (refer to FR 13.1). This requirement is consistent with the requirement imposed on participants by a number of global CCPs including CME, SGX, ICE Clear Europe and Hong Kong Clearing Corporation. For consistency and alignment, ASX is proposing to include this requirement in the rulebooks of the ASX CCPs and ASX Settlement.
- introducing a new requirement that participants meet technical and performance requirements in order to: (i) ensure that the efficiency and integrity of the Exchange System is not adversely impacted by their clearing messages; and (ii) support their reliable communication with the Exchange System (refer to FR 4.2(e) and 4.2A). This requirement aligns with an existing requirement under the ASX Clear Rules.

2.3. Alignment for consistency

ASX is taking steps to align common elements across the ASX CS facility operating rules to promote consistency. This includes, for example:

- **Waiver powers** – ASX proposes to replace the exemption power in ASX Clear (Futures) with a waiver power that will align with the waiver powers of ASX Clear, ASX Settlement and the ASX market operators (refer to FR 9A.3.1-9A.3.6 and Procedure).
- **Delegation of powers** – ASX proposes to align the delegation framework in the ASXCFOR with the approach taken by the ASX market operators, and ASX Clear and ASX Settlement. This means, for example, that ASX Clear (Futures), rather than “the Board” or “the Managing Director” will exercise various powers including imposing fees (refer, for example, to FR 93.2 - 93.2C)
- **Appointment of independent expert** – ASX proposes to introduce in the Futures Rules the same framework for the appointment of an independent expert that exists in the rules of ASX Clear, ASX Settlement and the ASX market operators (refer to FR 4.16).

2.4. Accuracy, transparency and clarity

ASX acknowledges that some of its operating rules and procedures are not as clear as they could be. ASX has taken into account participant feedback in identifying rules and procedures that cause confusion and has sought to clarify these. For example, ASX has restructured the detail in the Schedules to the Futures Rules by including the appropriate matters in the relevant rules or against the corresponding procedure (as applicable) to consolidate it all in the one place and make it easier to find. ASX has also reviewed its margin rules and has made a number of changes to aid transparency and clarity, including, the introduction of detail around intra day margin calls.

ASX has also taken this opportunity to propose some minor amendments to the ASX 24 rules along similar lines.

2.5. Deleting redundant rules

ASX is also taking this opportunity to delete redundant rules and procedures. This includes definitions that are no longer used, references to NZFOE that no longer apply, the framework for facility participants that is no longer utilised, and transitional arrangements that are no longer required, for example, the transitional arrangements relating to the Client Protection Model in Part 10 of the Futures Rules which applies to all Client Open Contracts (both Futures and OTC).

3. Feedback requested

ASX seeks stakeholders’ view on the draft amendments in this consultation paper. Submissions should be made by Friday 12 July 2024. ASX welcomes the opportunity to discuss the draft amendments with interested parties (refer to the contact details on page 2).

¹ For example, SGX is authorised to exercise certain emergency powers if it is necessary or desirable for ensuring a safe and efficient clearing facility or for proper management of systemic risk in the market: refer to Rule 2.34.1 of the [SGX-DC Clearing Rules](#)