



30 October 2024

Clive Triance
Group Executive,
Securities and Payments
ASX Limited
PO Box 1224
Australia Square NSW 1215

Email: EquityPostTrade@asx.com.au

Dear Clive

Consultation on Cash Equities Clearing, Settlement and Issuer Services Pricing Policy

FinClear Services Pty Ltd (FinClear) is the largest third-party clearing firm in Australia and represents 15 ASX participants (including two which are part of the larger FinClear group).

We welcome the opportunity to provide feedback on all ASX proposals and regrettably have significant concerns around this proposal above. For this reason, we have not provided specific responses to the individual questions asked and instead outline our general concerns below.

1. The proposal appears suitable for a mutual or co-operative organisation

As a standalone concept for a “not for profit” central industry Clearing and Settlement body, the proposed new pricing policy may be a valid one. However, that is not the case for ASX Clear and ASX Settlement which are wholly owned subsidiaries of ASX Limited (collectively referred to as ASX) a large listed corporate entity. Whilst we acknowledge that ASX seeks to operate its clearing and settlement facility on a mutualised risk-sharing basis with its clearing members, it is not owned by its clearing and settlement participants. Rather, as a listed entity, ASX’s primary role is to deliver shareholder value, a goal it consistently achieves, supported by its unique monopolistic position in the Australian market.

The proposed new pricing policy aims to ensure that ASX consistently recover their costs plus a margin, which, as a general objective, appears reasonable. However, this would suggest that ASX participants would be contractually bound to meet this objective each year.

FinClear Services Pty Ltd

Sydney | Level 8, 118 Mount Street, North Sydney NSW 2060 | +61 2 8039 6000

Melbourne | Level 5, 380 Collins Street, Melbourne VIC 3000 | +61 3 9081 3480

Perth | Level 8, 5 Mill Street, Perth WA 6000 | +61 8 9674 9999

finclear.com.au | ABN 60 136 184 962 | AFSL 338264

If this commercial obligation is accepted by participants, we would expect participants to not only have a clear and detailed view of ASX's cost base but also a degree of input on the appropriateness of these costs. Is this level of transparency and input anticipated by ASX?

The proposal envisages an "under-recovery" mechanism that would eliminate any financial exposure from ASX, placing it in a truly unique position where a return on capital is always guaranteed. While this approach could be fitting for a mutual industry body, it does not seem appropriate for a commercial, profit driven entity like ASX.

The proposal also contemplates a "claw back" position allowing ASX to recover any shortfall in required rate of return by levying the amount to its participants. While this type of arrangement may be advantageous and achievable in a monopolistic market, it is not permitted in the competitive commercial environment ASX's participants operate within.

We further note this proposal (along with the recent Cover 2 liquidity levels proposal) appears to be part of a wider trend for ASX to push its clearing and settlement costs onto its participants in a very short timeframe.

For the reasons stated above, we believe the current proposal is inappropriate and should not be taken further.

2. The proposal introduces further complexity to an already over complicated fee structure.

This proposal seems consistent with ASX's general approach, presenting a comprehensive paper which purports to be a review of ASX fees but does not directly address specific fee levels. Consequently, the existing complex fee structure remains intact, with additional layers of complexity introduced.

We believe it would be more constructive ASX to focus its efforts (and those of its participants) on reviewing and simplifying the current fee structure to enhance clarity and accessibility. For example, perhaps consider reducing the number of outdated CHES message types reassessing the relevance and appropriateness of the fees associated with each.

The current fee schedule is voluminous and difficult to navigate. For example, it has proved almost impossible for FinClear to reconcile the fees we pay to the number of contract notes that we issue. We believe that this should be a core billing concept.

Finally, we draw your attention to the September 2023 Mandala Report on clearing and settlement (a copy of which can be found here <https://mandalapartners.com/reports/competition-in-clearing-and-settlement>) which outlined (among other issues) that ASX levied fees are among

the highest globally. Specifically, competition has driven down clearing and settlement fees annually in Europe by 25 per cent, the UK by 27 per cent, and the US by 55 per cent, while ASX fees have remained flat.

In summary, FinClear believes that this proposal should be shelved and replaced with a detailed review of the current ASX Clear and Settlement fee structure.

3. Over-ambitious timeframe to implementation

The proposal as presented is complex, wide ranging and has the effect of putting the ASX in a uniquely advantageous commercial position. For this reason, the current implementation timeframe of just over 3 months' time is completely inadequate.

We would recommend that any proposal such as this needs to be reviewed by regulators, including, ASIC, RBA and the ACCC.

Please do not hesitate to contact us to discuss this matter further.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tony Lynch', with a stylized flourish at the end.

Tony Lynch
CFO
FinClear Services Pty Ltd