



Access to CCP and SSF CHESSE Services

ASX Public Consultation

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ASX Consultation Paper Access to Central Counterparty (CCP) and Securities Settlement Facility (SSF) CHESS Services No. 1

This is the first ASX Consultation Paper on Access to Central Counterparty (CCP) and Securities Settlement Facility (SSF) CHESS Services by aspirant market licensees for trade-execution-only platforms for ASX listed securities. ASX plans to engage in a transparent and open process to communicate the CCP and SSF CHESS access regime and standards that it will put in place to provide access to its clearing and settlement facilities.

A transparent process

The purpose of this Consultation Paper is to provide a transparent process, with the early release of an indicative timetable and framework for the development of an access regime, and to facilitate consultation with interested parties.

The timetable and framework set out in Annexure 1 is explained in this Consultation Paper.

1. What has happened so far?

ASIC conducted a consultation process on the regulatory framework for competing market operators for ASX listed securities

Aspiring operators of trade-execution-only platforms for ASX listed securities, ASX and other interested parties have been engaged in a consultation process with ASIC on the regulatory framework that should apply to any competing market operators for ASX listed securities. This consultation process did not address the different issues raised by access to CCP and SSF CHESS Services.

ASIC has foreshadowed that it will provide advice to the Minister for Superannuation and Corporate Law, Minister Sherry, following completion of the ASIC consultation process. ASX will respond to a decision from the Government and Minister Sherry on whether these applicants will be granted market licences and, if so, the regulatory framework within which such licences may be granted, including any conditions which will attach to such licences once issued.

ASX first received a request for access to CCP and SSF CHESS Services on 24 December 2007

ASX has received requests to engage in business and technical discussions on access to CCP and SSF CHESS Services from two aspirant market licensees for trade-execution-only platforms for ASX listed securities. The first such request was made to ASX on 24 December 2007 and the second was received on 31 January 2008.

The licensed entities which provide these CCP and SSF CHESS Services for ASX listed securities are 2 wholly owned subsidiaries within the ASX Group. Australian Clearing House Pty Limited (ACH) in its role as central counterparty (CCP) operates the equity market clearing house and ASX Settlement & Transfer Corporation Pty Limited (ASTC) the settlement facility, commonly referred to as CHESS.

Access to CCP and SSF CHESS Services requires consideration of risk issues

ASX is under an obligation to ensure that there is both proper consideration and investigation of the potential risk issues raised by providing access to CCP and SSF CHESS Services, and then to ensure that access is provided in a way that does not compromise the stability of ASX's clearing and settlement facilities or increase systemic risk in the wider financial system.

Until now access to CCP and SSF CHESS Services for ASX listed securities has only been provided to a trading platform operated by the ASX Group.

CHESS transfer-only services have been provided to the National Stock Exchange of Australia (NSX), which is a non-ASX listing and trade execution platform, for a number of years. This is a basic level of service which enables the ownership of approved NSX-listed securities to be transferred through CHESS. ASX has been engaged in commercial discussions with NSX with a view to extending these services to the next level of settlement service, namely DvP settlement services.

There are many significant points of difference between the services provided to NSX and those sought by aspirant market licensees for trade-execution-only platforms. Importantly, CCP services are not provided to NSX, the NSX trade execution platform does not directly feed executed trades into ASX's settlement facility and the volume and value of the trades that are processed from NSX are extremely low.

ASX initiated dialogue with ASIC and RBA on the issues raised by access to CCP and SSF CHESS Services in January and February 2008

ASX raised the implications from a clearing and settlement perspective of the regulatory framework for multiple trade-execution-only platforms with ASIC in January 2008 in its response to ASIC's Consultation Paper 95. Since that time ASX has provided further written information to ASIC on potential clearing and settlement risks.

ASX has proposed to ASIC mechanisms to manage the clearing risks that it has so far identified. The severity of the settlement risks that have been identified to ASIC will be affected by the terms and conditions of any licences that may be granted and the accompanying regulatory framework.

Since February, ASX has engaged in a dialogue with the Payments Policy Department of the Reserve Bank of Australia (the RBA) on threshold issues of concern that are relevant to the continued compliance of ASX's clearing and settlement facilities (CS facilities) with the *Financial Stability Standards* against which the RBA, in its role as prudential regulator, conducts an annual assessment of compliance.

On 7 March 2008 the Financial System Group of the Reserve Bank of Australia issued initial guidance to ASX which indicated that an approach which made CCP and SSF CHESS Services available to trade-execution-only platforms for ASX listed securities would be consistent with continued compliance with the relevant *Financial Stability Standards*. This guidance was given on the basis that a number of threshold issues, such as the timing of novation, default procedures and netting, would be managed according to the same standards as currently apply to the ASX trade execution platform. This guidance followed discussions between ASX executives and officers of the RBA on these matters.

2. ASX approach to CCP and SSF CHES Access

ASX is preparing a framework for a CCP and SSF CHES access regime supported by standards to address risks and manage costs

ASX is preparing the CCP and SSF CHES access regime. Further details of the CCP and SSF CHES access regime will be released as soon as ASX is able to consider the detail and implications from a clearing and settlement perspective of any regulatory framework for multiple trade-execution-only platforms.

Standards are needed on matters of market design that affect the CCP and to control in-flow of trades from trade-execution-only platforms

ASX has identified some matters of “market design” in a multiple trading platform environment that could affect the risk profile of the CCP and the settlement facility.

This means that it will be necessary for the CS facility operators to specify standards in relation to particular (market) operating rules to manage clearing and settlement risks, as well as to ensure continued compliance by the CS facilities with their licence obligations.

In discussion with the RBA and ASIC these matters of “market design” have been referred to as the “terms of trade”. The terms of trade identified so far include:

- the timing of novation of market transactions to the CCP;
- the time within which market transactions are required to be settled through CHES;
- the trade error cancellation rules which apply to market transactions;
- the short selling rules of the market operator.

Recent events have highlighted the prudential and systemic interest that CS facility operators legitimately have in controlling the in-flow of trades into their CS facilities. This control goes beyond specifying the types of financial products that can be sent through to the facility for post trade processing.

In recent circumstances of market disruption, ASX has been able to act quickly to impose conditions across end-to-end participation in ASX trading, clearing and settlement facilities to control the in-flow of trades into the CS facilities. This has been an essential element of the effective risk management of the potential exposure of the CCP and the ongoing fair and effective operation of ASX's settlement facility.

While these matters of “market design” will be addressed by setting standards through the CCP and SSF CHES access regime, ASX will also need to undertake a review of the operating rules of ASX's CS facilities and those of any new market operators to ensure that the clearing and settlement facilities can continue to be operated in a fair and effective manner, including in circumstances of market disruption and in Clearing Participant default management scenarios.

Further “terms of trade” requiring standard setting may be identified in consultation with Participants and during the process of compiling the CCP and SSF CHES access regime. In addition, ASX intends as part of that process to systematically determine whether there are any matters other than “terms of trade”, such as the manner and frequency of netting transactions, which should be specified in the CCP and SSF CHES access regime for the purpose of appropriately managing clearing and settlement risks.

ASX will have regard to the interests of existing users

ASX will shortly commence a programme of engagement with the existing users of ASX clearing and settlement facilities, in particular ACH Clearing Participants, to better understand the likely impact of multiple trade execution platforms for ASX listed securities on their role, including implications for their risk management and business operations as well as systems. The topics which will be discussed with Clearing Participants include those outlined in Annexure 2.

ASX will also consult with ASTC Settlement Participants, and with regulators, on the possible impact on the settlement facility and systemic risk of access by multiple trade-execution-only platforms to CCP and SSF CHES Services following any announcement from Minister Sherry on whether all or some of the current applicants will be granted licences and, if so, the regulatory framework that will be in place.

3. Management of the process

Development of the service for CCP and SSF CHES Access

Access to CCP and SSF CHES Services is being developed within the ASX Projects Framework, made up of 4 distinct phases.

The objectives and scope for CCP and SSF CHES access are currently being documented. ASX is starting preliminary work on the project definition including the business requirements and solution design. Dialogue on these matters is ongoing with regulatory agencies and will be finally scoped when full details of the regulatory framework are made available.

The indicative timeframe for release and consultation on this phase is within 1 month of a Government announcement on the regulatory framework.

Following completion of the project definition, ASX plans to release documentation of functional and technical specifications to qualified interested parties. At this stage all parties receiving such information will need to enter into appropriate confidentiality arrangements. ASX recognizes that parties may seek confidentiality commitments from ASX if they disclose information to ASX. ASX will also put in place appropriate information barriers.

The indicative timeframe for consultation on this phase is within 2 to 3 months of completion of the project definition.

Development/build, testing and operationalisation will follow finalization of the documentation of the access service specifications. There will be a formal certification process for third party applications.

Project delivery of access to CCP and SSF CHES Services may raise risk issues that need to be addressed to ensure the stability of its clearing and settlement facilities is not compromised.

ASX will engage in a transparent process, setting the earliest practical delivery date that can be achieved, consistent with ensuring that the operation of its clearing and settlement facilities and the management of risk is not detrimentally affected. The legitimate interests of the ASX group as the provider and investor in these facilities, along with the interests of existing users of the facilities, namely clearing and settlement participants, will be considered. ASX will also take into account the objectives of any regulatory framework announced by the Government within which market operators of trade-execution-only platforms for ASX listed securities may be licensed.

4. Ongoing dialogue

ASX will continue an active dialogue with ASIC and the RBA to identify and address risks and seek assurances from these regulators of ASX's continued compliance with its licence and other regulatory obligations.

ASX intends to progress these matters, in consultation with the appropriate regulatory agencies and existing users as expeditiously as possible.

Meeting and communication with ASX management

ASX management is available to meet with prospective new market operators who expect to apply for access to CCP and SSF CHESS Services and who wish to provide ASX with information on their proposed business operations.

All communications and requests should in the first instance be addressed to the General Counsel & Company Secretary, ASX Limited to ensure that appropriate confidentiality is maintained.

Annexure 1

Indicative Timetable

2008

January	ASX initiates dialogue with ASIC
February	ASX initiates dialogue with RBA
March	ASX releases Consultation Paper CCP and SSF CHESS Access No. 1
April	ASX undertakes Participant consultation
Government Announcement	Announcement on details of regulatory environment (GA)
1 month after GA	ASX releases Consultation Paper CCP and SSF CHESS Access No. 2 – Project Definition
2/3 months after Consultation Paper No. 2	ASX releases Consultation Paper CCP and SSF CHESS Access No. 3 – Draft Technical and Operational Standards
1 month after Consultation Paper No. 3	ASX releases and implements CCP and SSF CHESS access regime and receives formal access seeker applications

Annexure 2

Clearing Participant Consultation

Impact of Multiple trade execution platforms for ASX listed securities on Clearing Participant operations and systems

ASX is seeking clarification from Clearing Participants on the likely impact of multiple trade execution platforms for ASX listed securities on their role as Clearing Participants.

Clearing Participants are asked to consider likely changes or requirements for their:

- risk management operations
- business operations
- systems.

In particular Participants are asked to consider:

- impacts upon Clearing Participant intra-day and end of day risk exposure monitoring and capital adequacy monitoring
- additional reporting requirements
- other back office system impacts
- impacts upon current structure of ACH financial resources and future funding strategy

Clearing Participants are also asked to identify any assumptions they are making about the way in which access to CCP or SSF CHESS Services will operate.



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