



16 October 2015

Ms Ananda Stoevelaar
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Dear Ms Stoevelaar

ASIC Consultation Paper 236: SEGC Submission

Introduction

This submission is a response by Securities Exchanges Guarantee Corporation Limited (**SEGC**) to the Australian Securities and Investments Commission (**ASIC**) August 2015 Consultation Paper 236, *Remaking ASIC class orders on dematerialised securities and CHESS units of foreign securities*. Further comment on any of the points raised in this submission, or on any additional points considered to be relevant to the consultation, can be provided on request.

SEGC is a company limited by guarantee and the trustee of the National Guarantee Fund (**NGF**) under the *Corporations Act 2011 (Cth)*. The sole member of SEGC is ASX Limited (**ASX**). Chi-X Australia Pty Limited (**Chi-X**) has applied to become a member of SEGC and that application has been conditionally approved. SEGC is working with Chi-X to fulfil those conditions.

The NGF is a compensation fund available to meet certain claims which arise from dealings with participants of ASX (and Chi-X when it becomes a member of SEGC) and, in limited circumstances, participants of ASX Clear Pty Limited.

SEGC administers the NGF in accordance with Division 4 of Part 7.5 of the *Corporations Act 2011 (Cth)* and the *Corporations Regulations 2011 (Cth)* and holds the assets of the NGF in trust for the purposes set out in that legislation.

Summary

Whilst the Consultation Paper proposes the relief currently given by ASIC Class Order [CO 02/312] be continued without any significant changes, if the remaking of ASIC Class Order [CO 02/312] is to be extended to warrants and interests in managed investment schemes able to be traded on the Chi-X financial market as a result of other responses to the Consultation Paper, the drafting of the revised class order should be specific to those particular Chi-X financial products rather than general drafting which simply refers to specific classes of financial products which are able to be traded on a financial market operated by member of SEGC (or a subsidiary of such a member).

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Further, the remaking of the class order should not extend to products traded on Chi-X unless and until Chi-X is a member of SEGC.

Remaking of ASIC Class Order [CO 02/312]

The Consultation Paper invited comments on ASIC's proposal to remake ASIC Class Order [CO 02/312] Part 7.11, Division 4 financial products for ASTC.

As noted in the Consultation Paper, ASIC Class Order [CO 02/312] extends the NGF provisions to additional financial products specified in the Class Order.

As part of its duties as trustee of the NGF, SEGC periodically assesses the adequacy of the NGF, including the minimum amount of NGF under section 889I of the *Corporations Act* and any need to determine that a levy must be paid under section 889J of the *Corporations Act*. Those assessments take into account the financial products to which the NGF provisions apply.

Accordingly, the SEGC Board is of the view that if the remaking of ASIC Class Order [CO 02/312] is to be extended to warrants and interests in managed investment schemes able to be traded on the Chi-X financial market as a result of other responses to the Consultation Paper, the drafting of the revised class order should be specific to those particular Chi-X financial products. This would enable SEGC to make future assessments of the adequacy of the NGF against a defined class of financial products. In addition, the remaking of the class order should not extend to products traded on Chi-X unless and until Chi-X is a member of SEGC.

The drafting of the revised class order should not simply refer to specific classes of financial products which are able to be traded on a financial market operated by member of SEGC (or a subsidiary of such a member). Such drafting would prevent SEGC having the opportunity to be consulted on, and comment on, future extensions of the financial products to which the NGF provisions apply as a result of any future changes to the members of SEGC or the financial markets which those members (or their subsidiaries) operate.

SEGC would appreciate consultation on any final drafting of the class order given its specific interest in this matter and that we are not privy to other responses to the Consultation Paper.

If you require any further information please contact the undersigned at _____ or phone:

Yours sincerely

Gabby Hart
Company Secretary
& Legal Counsel