



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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21 February 2023

Ms Johanna O'Rourke
ASX Group General Counsel and Company Secretary
ASX Limited, ASX Clear Pty Ltd and ASX Settlement Pty Ltd
20 Bridge Street
Sydney NSW 2000

By email

Dear Ms O'Rourke

Notices issued pursuant to s794B and s823B of the Corporations Act 2001

1. We refer to the following correspondence:
 - a. the joint letter of expectations issued by ASIC and the RBA to the directors of ASX Limited, ASX Clear and ASX Settlement on 17 November 2022 (**Letter of Expectations**);
 - b. ASIC's letter of 14 December 2022 advising of the issuance of notices to ASX Clear Pty Ltd (**ASX Clear**) and ASX Settlement Pty Ltd (**ASX Settlement**) under section 823B of the Corporations Act 2001 (the **Act**), requiring ASX Clear and ASX Settlement to produce a special report on current CHES; and
 - c. the RBA's letter of 15 December 2022, outlining its expectations with respect to current CHES and its replacement.
2. ASIC has referred to an ASIC Delegate the decision to issue written notices to ASX Limited, ASX Clear and ASX Settlement (the **Licensees**) requiring:
 - a. the Licensees to provide a special report detailing their response to the findings of the CHES Replacement Program External Review, and nominating Ernst & Young to undertake an audit of that report pursuant to section 794B and 823B of the Act; and
 - b. the Licensees to provide a special report detailing the Licensees' current portfolio, program and project management frameworks as assessed against internationally recognised frameworks (**Program Management Special Report**), and nominating Ernst & Young to undertake an audit of that report pursuant to section 794B and 823B of the Act.
3. The ASIC Delegate has decided to issue notices pursuant to s794B and s823B of the Act to the Licensees. Please find **enclosed** with this letter notices issued to ASX Limited, ASX Settlement and ASX Clear (the **Notices**) together with a covering letter.


ASIC's expectations

4. In preparing the special reports and engaging Ernst & Young to prepare the audit reports, ASIC expects the Licensees:
 - a. to provide ASIC with the proposed terms on which Ernst & Young will be engaged to prepare the audit reports for our review. We expect that the Licensees will reasonably assist Ernst & Young to carry out the terms of their engagement, including by:
 - i. providing Ernst & Young with any information, document or explanation reasonably requested; and
 - ii. to the extent that it is reasonable having regard to the engagement, provide Ernst & Young with access to the Licensees' premises, equipment, technology, systems, books and records and to interview representatives of the Licensees;
 - b. to address in the Program Management Special Report the specified matters in paragraphs 2(2)(d) and (e) of the Notice addressed to ASX Limited for the ASX Group.
 - c. to ensure that the special reports are accompanied by an attestation from the Board of Directors of each of the Licensees confirming that the Board of Directors reasonably believes that the information contained in the special reports is accurate; and
 - d. to provide a public version of the special reports and audit reports that has appropriately considered the confidentiality of certain commercial information and security (including cyber).
5. ASIC understands that ASX has engaged a number of consultants to assist it to formulate its response to the recommendations made in the CHES Replacement Program External Review and to assist with its program delivery uplift. ASIC considers that it is appropriate for ASX to seek input from external consultants to assist it to prepare the special reports.
6. ASIC will engage with the Licensees further while the special reports and audit reports are being prepared to identify and address information that the Licensees consider should not be made public.
7. ASIC is continuing to consider what further regulatory action may be taken by ASIC to ensure:
 - a. the adequate functional development, support and maintenance of CHES;
 - b. that the CHES Replacement will meet all functional and non-functional requirements and will enable new functional developments without undue risk and impact to participants in future;
 - c. that the Licensees take all necessary steps to address the gaps and deficiencies identified in the CHES Replacement Program External Review and in addition to identify and address any other gaps in ASX's broader portfolio, program and project management including governance, vendor management and capabilities that may not have been identified by Accenture, due to time constraints or limited by their scope of work; and
 - d. that the Licensees have complied with all relevant licence conditions and their legal obligations more generally.

8. ASIC reserves its rights in respect of any further action as it considers appropriate.

Please contact me if you wish to discuss any of the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nathan Bourne', with a long horizontal flourish extending to the right.

Nathan Bourne
Senior Executive Leader, Market Infrastructure
Markets Group



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21 February 2023

The Directors
ASX Limited, ASX Settlement Pty Limited, ASX
Clear Pty Limited
20 Bridge Street
Sydney NSW 2000
C/o Johanna O'Rourke, ASX Group General
Counsel and Company Secretary

By email

Written notice of requirement to prepare special reports and have the reports audited

I write to ASX Limited (**ASX**), ASX Clear Pty Limited (**ASX Clear**) and ASX Settlement Pty Limited (**ASX Settlement**) in my capacity as delegate of the Minister. I have decided to require ASX, ASX Clear and ASX Settlement to prepare special reports on specified matters pursuant to sections 794B and 823B of the *Corporations Act 2001* (Cth) (**Act**). ASX, ASX Clear and ASX Settlement are required to:

- give ASIC special reports on specified matters (**Special Reports**). The matters to be reported on are set out in **Attachments A, B, C, D, E and F** to this letter.
- give ASIC audit reports on the special reports. (**Audit Reports**). The Special Reports are to be audited by a specified person who is suitably qualified. The person nominated to audit the report is identified in the Attachments to this letter.
- provide the special reports to ASIC by the dates specified in the Attachments to this letter and to have the nominated person provide the Audit Reports to ASIC by the dates specified in Attachments to this letter.

Written notices pursuant to sections 794B and 823B have been issued to ASX, ASX Clear and ASX Settlement. ASX, ASX Clear and ASX Settlement may comply with those notices by providing to ASIC:

- a single special report and audit report addressing the specified matters set out in Attachment A, B and C to this letter as applicable to ASX, ASX Settlement and ASX Clear.
- a single special report and audit report addressing the specified matters set out in Attachment D, E and F to this letter as applicable to ASX, ASX Settlement and ASX Clear.

Yours sincerely,

as a Delegate of the Minister
Claire LaBouchardiere
Senior Executive Leader, Corporations
Australian Securities and Investments Commission



S01638424

Attachment A

Specified matters to be addressed in CHES Replacement Program External Review Special Report

ASX Limited - section 794B Corporations Act 2001 notice

1. Definitions

ASIC means the Australian Securities and Investments Commission.

CHES means the Clearing House Electronic Sub-register System.

CHES Replacement Program means the program to replace CHES with the CHES Replacement System.

CHES Replacement Program External Review means the review undertaken by Accenture of the CHES Replacement Program application delivery between September and November 2022.

CHES Replacement System means the system to replace CHES which is to be delivered or implemented as part of the CHES Replacement Program.

Licensee means ASX Limited.

2. Special Report on response to recommendations made in the CHES Replacement Program External Review

- (1) The Licensee must, by 30 June 2023 give a report to ASIC detailing the Licensee's response plan to the findings and recommendations of the CHES Replacement Program External Review (the **Special report**).
- (2) For the avoidance of doubt and where appropriate, the Special Report must detail implementation plans and specify the date by which remedial actions will be taken.

3. Requirement to have the Special Report audited

- (1) The Licensee must have the Special Report audited by Ernst and Young (**Audit Report**).
- (2) The Licensee must provide the Audit Report to ASIC by 31 July 2023.

Dated 21 February 2023

Signed.....

Claire LaBouchardiere
As delegate of the Minister under section 1101J of the Act



Attachment B

Specified matters to be addressed in CHES Replacement Program External Review Special Report

ASX Clear - section 823B Corporations Act 2001 notice

1. Definitions

ASIC means the Australian Securities and Investments Commission.

CHES means the Clearing House Electronic Sub-register System.

CHES Replacement Program means the program to replace CHES with the CHES Replacement System.

CHES Replacement Program External Review means the review undertaken by Accenture of the CHES Replacement Program application delivery between September and November 2022.

CHES Replacement System means the system to replace CHES which is to be delivered or implemented as part of the CHES Replacement Program.

Licensee means ASX Clear Pty Ltd.

2. Special Report on response to recommendations made in the CHES Replacement Program External Review

- (1) The Licensee must, by 30 June 2023 give a report to ASIC detailing the Licensee's response plan to the findings and recommendations of the CHES Replacement Program External Review (the **Special report**).
- (2) For the avoidance of doubt and where appropriate, the Special Report must detail implementation plans and specify the date by which remedial actions will be taken.

3. Requirement to have the Special Report audited

- (1) The Licensee must have the Special Report audited by Ernst and Young (**Audit Report**).
- (2) The Licensee must provide the Audit Report to ASIC by 31 July 2023.

Dated 21 February 2023

Signed.....

Claire LaBouchardiere
As delegate of the Minister under section 1101J of the Act



S01638426

Attachment C

Specified matters to be addressed in CHES Replacement Program External Review Special Report

ASX Settlement - Section 823B Corporations Act 2001 notice

1. Definitions

ASIC means the Australian Securities and Investments Commission.

CHES means the Clearing House Electronic Sub-register System.

CHES Replacement Program means the program to replace CHES with the CHES Replacement System.

CHES Replacement Program External Review means the review undertaken by Accenture of the CHES Replacement Program application delivery between September and November 2022.

CHES Replacement System means the system to replace CHES which is to be delivered or implemented as part of the CHES Replacement Program.

Licensee means ASX Settlement Pty Ltd.

2. Special Report on response to recommendations made in the CHES Replacement Program External Review

- (1) The Licensee must, by 30 June 2023 give a report to ASIC detailing the Licensee's response plan to the findings and recommendations of the CHES Replacement Program External Review (the **Special report**).
- (2) For the avoidance of doubt and where appropriate, the Special Report must detail implementation plans and specify the date by which remedial actions will be taken.

3. Requirement to have the Special Report audited

- (1) The Licensee must have the Special Report audited by Ernst and Young (**Audit Report**).
- (2) The Licensee must provide the Audit Report to ASIC by 31 July 2023.

Dated 21 February 2023

Signed.....

Claire LaBouchardiere
As delegate of the Minister under section 1101J of the Act



Attachment D

Specified matters to be addressed in Program Management Special Report

ASX Limited - section 794B Corporations Act 2001 notice

1. Definitions

ASIC means the Australian Securities and Investments Commission.

ASX Group means the ASX group of companies that are ultimately controlled by ASX Limited ACN 008 624 691.

Licensee means ASX Limited.

Portfolio means the totality of the Licensee's investment in Programs and Projects to deliver the changes required to achieve its strategic objectives.

Portfolio Management means the coordinated collection of strategic processes and decisions that together enable the most effective balance of organisational change and business as usual activities.

PPPM Frameworks means the Licensee's frameworks for its Portfolio, Program and Project management.

Program means a temporary grouping of projects created to coordinate, direct and oversee the implementation of a set of related changes in order to deliver outcomes and benefits related to the Licensee's strategic objectives.

Program Management means the action of carrying out the coordination, direction and implementation of a grouping of Projects to achieve outcomes and realise benefits of strategic importance.

Project means a temporary undertaking, which will deliver one or more changes in accordance with a specific business case related to the Licensee's strategic objectives. A particular Project may or may not be part of a Program.

Project Management means the planning, monitoring and control of all aspects of a Project to achieve the Project objectives on time and to the specified cost, quality and performance.

Benefits Management means the identification, definition, tracking, realisation and optimisation of benefits within and beyond a Program.

Gated Review means a structured review of a Project, Program or Portfolio as part of formal governance arrangements carried out at key decision points in the lifecycle to ensure that the decision to invest as per the agreed business case remains valid.

2. Special Report on PPPM Frameworks and capability

(1) The Licensee must, by 29 September 2023 give a report to ASIC detailing:

- a. current PPPM Frameworks;

- b. an assessment of current PPPM Frameworks against internationally recognised frameworks, either:
 - i. validating that they (or components of them) are fit-for-purpose for critical financial market infrastructure; and/or
 - ii. identifying any deficiencies or gaps in PPPM Frameworks and measures to be taken to rectify any such deficiencies,

(the **Special report**).

(2) Without limiting the scope of the Special Report required by 2(1), the Special Report must address the following specified matters:

- a. how PPPM Frameworks are aligned with, and integrated into, ASX Group's corporate governance framework, enterprise risk management framework and its accountability maps;
- b. how PPPM Frameworks will address and manage:
 - i. stakeholder engagement and communications;
 - ii. resource and capability management;
 - iii. vendor management;
 - iv. risks and issues management;
 - v. quality and assurance;
 - vi. organisational change management;
 - vii. Benefits Management;
 - viii. effective monitoring, reporting and performance assessment against approved plans, including Gated Reviews; and
 - ix. regulator engagement;
- c. how PPPM Frameworks will be subject to periodic review to measure their effectiveness and ensure they continue to be fit-for-purpose and contribute to improving the Licensee's overall delivery maturity;
- d. current status of ASX Group-wide adoption and use of portfolio, program and project management frameworks and processes for managing requests for exemptions for any deviations or modifications in the application of the frameworks;
- e. plans for ASX Group-wide adoption and use of portfolio, program and project management frameworks (where gaps or deficiencies have been identified);
- f. the governance arrangements incorporated into PPPM Frameworks including (but not limited to):
 - i. organisation structures with clearly defined roles and responsibilities (including mandatory and optional roles);

- ii. skills and experience requirements for members of governance and steering boards or committees;
- iii. documented decision-making processes (including who is responsible for decisions) in respect of critical decisions such as business case approvals or variations, prioritisation, capability reviews, risk reviews and resourcing allocation; and
- iv. requirements for reporting to boards and board subcommittees.

(3) For the avoidance of doubt and where appropriate, the Special Report must detail implementation plans and specify the date by which the measures detailed in accordance with 2(1)(b)(ii) and 2(2)(e) will be taken.

3. Requirement to have the Special Report audited

- (1) The Licensee must have the Special Report audited by Ernst and Young (**Audit Report**).
- (2) The Licensee must provide the Audit Report to ASIC by 31 October 2023.

Dated 21 February 2023



Signed.....

Claire LaBouchardiere
As delegate of the Minister under section 1101J of the Act



S01638428

Attachment E

Specified matters to be addressed in Program Management Special Report

ASX Clear Pty Ltd - section 823B Corporations Act 2001 notice

1. Definitions

ASIC means the Australian Securities and Investments Commission.

ASX Group means the ASX group of companies that are ultimately controlled by ASX Limited ACN 008 624 691.

Licensee means ASX Clear Pty Ltd.

Portfolio means the totality of the Licensee's investment in Programs and Projects to deliver the changes required to achieve its strategic objectives.

Portfolio Management means the coordinated collection of strategic processes and decisions that together enable the most effective balance of organisational change and business as usual activities.

PPPM Frameworks means the Licensee's frameworks for its Portfolio, Program and Project management.

Program means a temporary grouping of Projects created to coordinate, direct and oversee the implementation of a set of related changes in order to deliver outcomes and benefits related to the Licensee's strategic objectives.

Program Management means the action of carrying out the coordination, direction and implementation of a grouping of Projects to achieve outcomes and realise benefits of strategic importance.

Project means a temporary undertaking, which will deliver one or more changes in accordance with a specific business case related to the Licensee's strategic objectives. A particular Project may or may not be part of a Program.

Project Management means the planning, monitoring and control of all aspects of a Project to achieve the Project objectives on time and to the specified cost, quality and performance.

Benefits Management means the identification, definition, tracking, realisation and optimisation of benefits within and beyond a program.

Gated Review means a structured review of a Project, Program or Portfolio as part of formal governance arrangements carried out at key decision points in the lifecycle to ensure that the decision to invest as per the agreed business case remains valid.

2. Special Report on PPPM Frameworks and capability

(1) The Licensee must, by 29 September 2023 give a report to ASIC detailing:

- a. current PPPM Frameworks;

- b. an assessment of current PPPM Frameworks against internationally recognised frameworks, either:
 - i. validating that they (or components of them) are fit-for-purpose for critical financial market infrastructure; and/or
 - ii. identifying any deficiencies or gaps in PPPM Frameworks and measures to be taken to rectify any such deficiencies,

(the **Special report**).

(2) Without limiting the scope of the Special Report required by 2(1), the Special Report must address the following specified matters:

- a. how PPPM Frameworks are aligned with, and integrated into, ASX Group's corporate governance framework, enterprise risk management framework and its accountability maps;
- b. how PPPM Frameworks will address and manage:
 - i. stakeholder engagement and communications;
 - ii. resource and capability management;
 - iii. vendor management;
 - iv. risks and issues management;
 - v. quality and assurance;
 - vi. organisational change management;
 - vii. Benefits Management;
 - viii. effective monitoring, reporting and performance assessment against approved plans, including Gated Reviews; and
 - ix. regulator engagement;
- c. how PPPM Frameworks will be subject to periodic review to measure their effectiveness and ensure they continue to be fit-for-purpose and contribute to improving the Licensee's overall delivery maturity;
- d. the governance arrangements incorporated into PPPM Frameworks including (but not limited to):
 - i. organisation structures with clearly defined roles and responsibilities (including mandatory and optional roles);
 - ii. skills and experience requirements for members of governance and steering boards or committees;
 - iii. documented decision-making processes (including who is responsible for decisions) in respect of critical decisions such as business case approvals or variations, prioritisation, capability reviews, risk reviews and resourcing allocation; and
 - iv. requirements for reporting to boards and board subcommittees.

(3) For the avoidance of doubt and where appropriate, the Special Report must detail implementation plans and specify the date by which the measures detailed in accordance with 2(1)(b)(ii) will be taken.

3. Requirement to have the Special Report audited

- (1) The Licensee must have the Special Report audited by Ernst and Young (**Audit Report**).
- (2) The Licensee must provide the Audit Report to ASIC by 31 October 2023.

Dated 21 February 2023



Signed.....

Claire LaBouchardiere
As delegate of the Minister under section 1101J of the Act



S01638429

Attachment F

Specified matters to be addressed in Program Management Special Report

ASX Settlement - section 823B Corporations Act 2001 notice

1. Definitions

ASIC means the Australian Securities and Investments Commission.

ASX Group means the ASX group of companies that are ultimately controlled by ASX Limited ACN 008 624 691.

Licensee means ASX Settlement Pty Ltd.

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Benefits Management means the identification, definition, tracking, realisation and optimisation of benefits within and beyond a Program.

Gated Review means a structured review of a Project, Program or Portfolio as part of formal governance arrangements carried out at key decision points in the lifecycle to ensure that the decision to invest as per the agreed business case remains valid.

2. Special Report on PPPM Frameworks and capability

(1) The Licensee must, by 29 September 2023 give a report to ASIC detailing:

a. current PPPM Frameworks;

- b. an assessment of current PPPM Frameworks against internationally recognised frameworks, either:
 - i. validating that they (or components of them) are fit-for-purpose for critical financial market infrastructure; and/or
 - ii. identifying any deficiencies or gaps in PPPM Frameworks and measures to be taken to rectify any such deficiencies,

(the **Special report**).

(2) Without limiting the scope of the Special Report required by 2(1), the Special Report must address the following specified matters:

- a. how PPPM Frameworks are aligned with, and integrated into, ASX Group's corporate governance framework, enterprise risk management framework and its accountability maps;
- b. how PPPM Frameworks will address and manage:
 - i. stakeholder engagement and communications;
 - ii. resource and capability management;
 - iii. vendor management;
 - iv. risks and issues management;
 - v. quality and assurance;
 - vi. organisational change management;
 - vii. Benefits Management;
 - viii. effective monitoring, reporting and performance assessment against approved plans, including Gated Reviews; and
 - ix. regulator engagement;
- c. how PPPM Frameworks will be subject to periodic review to measure their effectiveness and ensure they continue to be fit-for-purpose and contribute to improving the Licensee's overall delivery maturity;
- d. the governance arrangements incorporated into PPPM Frameworks including (but not limited to):
 - i. organisation structures with clearly defined roles and responsibilities (including mandatory and optional roles);
 - ii. skills and experience requirements for members of governance and steering boards or committees;
 - iii. documented decision-making processes (including who is responsible for decisions) in respect of critical decisions such as business case approvals or variations, prioritisation, capability reviews, risk reviews and resourcing allocation; and
 - iv. requirements for reporting to boards and board subcommittees.

(3) For the avoidance of doubt and where appropriate, the Special Report must detail implementation plans and specify the date by which the measures detailed in accordance with 2(1)(b)(ii) will be taken.

3. Requirement to have the Special Report audited

(1) The Licensee must have the Special Report audited by Ernst and Young (**Audit Report**).

(2) The Licensee must provide the Audit Report to ASIC by 31 October 2023.

Dated 21 February 2023



Signed.....

Claire LaBouchardiere
As delegate of the Minister under section 1101J of the Act