



**ASIC**  
Australian Securities &  
Investments Commission

The Directors  
ASX Clear Pty Limited & ASX Settlement Pty Limited  
20 Bridge Street  
SYDNEY NSW 200

*By email*

29 August 2023

Dear Directors

### **REGULATORY EXPECTATIONS FOR ASX CASH EQUITIES CLEARING AND SETTLEMENT ADVISORY GROUP**

1. We refer to ASIC's industry roundtable held on Wednesday, 2 August 2023 and the establishment of a high-level strategic stakeholder advisory group, the ASX Cash Equities Clearing and Settlement Advisory Group (**the Advisory Group**).

#### **Establishment of CS Advisory Group**

2. ASX and industry are at a critical point in the CHES Replacement Program (**the Program**). Effective engagement between ASX and the industry is essential to get the Program back on track. The consensus view at the industry roundtable was that the establishment of the Advisory Group would be the best mechanism for the restoration of trust and confidence in the Program and ASX's decision-making and governance.
3. It is of the highest priority that the Advisory Group is promptly formed and that the Advisory Group proceed with the important work of advising the boards of ASX Clear Pty Limited (**ASX Clear**) and ASX Settlement Pty Limited (**ASX Settlement**) on key strategic clearing and settlement issues and contributing to the successful replacement of CHES.

#### **ASIC's and RBA's expectations**

4. ASIC and the RBA (the **Regulators**) have certain regulatory expectations of ASX Clear and ASX Settlement as you establish and engage with the Advisory Group. We expect ASX Clear and ASX Settlement to:
  - i. promptly establish the Advisory Group and provide the resources and support necessary for the Advisory Group and its Independent Chair to execute their advisory functions;
  - ii. consult and engage in good faith with the Advisory Group and its Independent Chair;
  - iii. seek the advice and input from the Advisory Group on key strategic issues in the provision of cash equity clearing and settlement services and associated

- infrastructure, and to seriously consider the advice and recommendations put forward by the Advisory Group;
- iv. not make any final decisions about key strategic issues, particularly in respect of the CHES Replacement Program until:
    - a. the Advisory Group has had a reasonable opportunity to consider the key strategic issues and provide any recommendations;
    - b. ASX Clear and ASX Settlement have considered and responded to the recommendations. If the recommendations are not accepted, we expect ASX Clear and ASX Settlement to provide a comprehensive response in writing to the Advisory Group, and a copy of the correspondence to the Regulators; and
    - c. the Regulators have also been briefed by ASX Clear and ASX Settlement and, separately, by the independent Chair of the Advisory Group.
  5. Key strategic issues in respect of the CHES Replacement Program include, but are not limited to, any issues or matters that are strategically significant to or have a material influence or effect on ASX Clear and ASX Settlement's selection of the replacement system and management of the CHES Replacement Program, including:
    - i. the solution design archetype for the replacement system; and
    - ii. the appointment of key vendors (including a solution integrator, if an integrator is required).
  6. Other key strategic issues include the implementation of T+1 settlement in Australia, and any other industry developments or issues that are strategically significant to or will have material influence or effect on ASX Clear and ASX Settlement's provision of cash equities clearing and settlement services and associated infrastructure.
  7. Given the nature of the key strategic issues, it is anticipated that an appropriate confidentiality regime will be established to govern the discussion of issues at the Advisory Group.
  8. The directors of ASX Clear and ASX Settlement are ultimately accountable for ASX Clear and ASX Settlement's compliance with their CS facility licence obligations. Importantly, this includes an obligation to provide fair and effective services and to the extent that it is reasonably practicable to do so, comply with the Financial Stability Standards and do all other things necessary to reduce systemic risk. The Regulators consider genuine, robust consultation and engagement with the Advisory Group is integral to improving the provision by ASX Clear and ASX Settlement of fair and effective CS facility services.
  9. The Advisory Group is also a key element of good governance of critical market infrastructure. The establishment of the Advisory Group is consistent with requirements under the Financial Stability Standards that require the overall strategy and major decisions of ASX Clear and ASX Settlement to reflect appropriately the legitimate interests of their direct and indirect participants and other relevant stakeholders.
  10. ASIC is prepared to use its existing powers (including delegated powers) under the current regulatory framework to ensure ASX Clear and ASX Settlement's compliance with these regulatory expectations. ASIC is also prepared to use any future powers it receives under the proposed Competition in Clearing and Settlement Reforms currently before Parliament and the proposed Financial Market Infrastructure Regulatory Reforms.

**Acknowledgement and undertaking**

11. The Regulators expect you to formally respond to this letter by 31 August 2023, acknowledging these regulatory expectations and providing a public undertaking that you will comply with these expectations.
12. ASIC will continue to closely engage and focus its supervision on ASX Clear and ASX Settlement's compliance with their obligations under the CS facility regulatory regime in Part 7.3 of the Corporations Act and the discharge of your duties as directors of ASX Clear and ASX Settlement.

Yours sincerely

**JOSEPH LONGO**

CHAIR

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

**MICHELE BULLOCK**

DEPUTY GOVERNOR

RESERVE BANK OF AUSTRALIA