



#### Invitation to comment

ASX is seeking submissions on the proposed rule and procedure amendments canvassed in this paper by 6 February 2015. Submissions should be sent to:

E catherine.eakin@asx.com.au

Office of General Counsel ASX Limited 20  
Bridge Street Sydney NSW 2000

Attention: Catherine Eakin

ASX prefers to receive submissions in electronic form. Submissions not marked as 'confidential' will be made publicly available on ASX's website.

If you would like your submission, or any part of it, to be treated as 'confidential', please indicate this clearly in your submission. ASX is available to meet with interested parties for bilateral discussions on the proposed rule and procedure amendments canvassed in this paper.

#### Contacts

For general enquiries, please contact:

**Catherine Eakin** – Senior Manager & Legal Counsel

T 02 9227 0472

E catherine.eakin@asx.com.au

**Ben Symonds** – Manager Clearing Services

T 02 9227 0535

E ben.symonds@asx.com.au

Media enquiries, please contact:

**Matthew Gibbs** – General Manager, Media and Communications

T 02 9227 0218

E matthew.gibbs@asx.com.au

## CONTENTS

<b>Introduction</b> .....	3
Purpose .....	3
Background.....	3
<b>ASX Clear (Futures) - Enhanced Client Account Structures</b> .....	4
Consultation undertaken to date.....	4
ASX Clear (Futures): Key Features of the enhanced Client Account offering .	5
<b>ASX Clear - Enhanced Client Account Structures</b> .....	7
ASX Clear: Key Features of the enhanced Client Account offering .....	7
<b>Next steps</b> .....	8
<b>Annexure 1: ASX Clear (Futures) - Individual Client Account (ICA) Structure</b> .....	9

## Introduction

### Purpose

This Consultation Paper seeks stakeholder input on enhancements to ASX's client clearing account structures that will offer derivatives clients the choice of increased collateral protection. ASX seeks feedback from Clearing Participants and their Clients on ASX's proposed amendments to the Operating Rules of the ASX Group central counterparties, ASX Clear and ASX Clear (Futures) (**ASX CCPs**), which will enable excess customer collateral for derivatives to be held directly with the ASX CCPs.

ASX is introducing the enhancements to comply with regulatory guidance of the Reserve Bank of Australia (**RBA**), and so that the ASX CCPs can gain recognition in the European Union (**EU**). In the case of ASX Clear (Futures), ASX has developed the enhancements having regard to customer feedback in response to the consultation paper on enhanced Client protection structures for the ASX Client Clearing Service for ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives published in July 2014.

ASX's proposed amendments to the ASX Clear Operating Rules and ASX Clear (Futures) Operating Rules outlined in this Consultation Paper are available at:

- [ASX Clear Operating Rules](#) and [ASX Clear Operating Rules – Procedures](#)
- [ASX Clear \(Futures\) Operating Rules](#) and [ASX Clear \(Futures\) Operating Rules - Procedures](#)

### Background

The ASX CCPs have applied for recognition in the EU in order to continue to provide services to Clearing Participants established in the EU or subject to EU bank capital regulations. Recognition in the EU requires the ASX CCPs to be subject to an equivalent Australian regulatory regime to that established in the EU for central counterparties. In order to clarify how requirements of the Australian regulatory regime align with the EU regime, in October 2014 the RBA issued supplementary interpretation of the Financial Stability Standards for central counterparties that apply to the ASX CCPs (available [here](#)). Under that supplementary interpretation, each ASX CCP must make available an account structure for derivatives that enables:

- its Clearing Participants to offer their customers an option that allows for separate identification and protection of customers' gross positions and collateral (or collateral value); and
- excess customer collateral to be held directly with the ASX CCP.

Each ASX CCP already makes available an account structure that enables its Clearing Participants to offer their derivative customers an account option for separate identification and protection of individual customers' gross positions and collateral (or collateral value). The individual client accounts available for ASX Exchange Traded Options and ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives satisfy this regulatory requirement. In response to the RBA's supplementary interpretation ASX must now amend the Operating Rules of the ASX CCPs to enable excess customer collateral for derivatives to be held directly with the ASX CCPs and attributed to individual client accounts. A service offering that makes this choice available is scheduled for the first half of 2015, following regulatory clearance.

## ASX Clear (Futures) - Enhanced Client Account Structures

### Consultation undertaken to date

On 14 July 2014, ASX released a Consultation Paper (available [here](#)) on enhanced Client protection structures for its Client Clearing Service for ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives. The potential enhancements considered included the protection of excess client collateral and the tracking of client non-cash collateral.

ASX received 9 formal submissions from Clearing Participants and their Clients. ASX also held a number of bilateral discussions with Clients.

No respondents were in a position to provide quantitative guidance on the costs and benefits of the enhancement options canvassed in the Consultation Paper.

ASX is taking the following steps to address comments made on the proposals outlined in the July 2014 Consultation Paper:

- (i) *'With excess' account should be an optional offering for Clearing Participants – there should be no mandated pass-through of excess client collateral from the Clearing Participant to ASX*

'With excess' will be an optional account offering for Clearing Participants. A Clearing Participant will have the ability (but not the obligation) to segregate excess Client collateral value at the Individual Client Account level. All Client collateral will continue to be comingled in the Clearing Participant's Client Clearing Account. ASX will not mandate that Clearing Participants pass-through excess Client collateral to ASX. Excess Client collateral may not be segregated in an Omnibus Client Account. Any excess Client collateral value that is not segregated in an Individual Client Account may, as at present, be applied to a shortfall in any Client Account of the Clearing Participant.

- (ii) *Clearing Participants expect buy-side clients to prefer asset (in specie) attribution over value attribution of collateral*

Asset attribution will be an optional account offering for Clearing Participants. A Clearing Participant will have the ability (but not the obligation) to nominate one or more of its Individual Client Accounts for the purpose of asset attribution. Attributable assets will include eligible cash and non-cash collateral. Assets may not be attributed to an Omnibus Client Account. In the event of a Clearing Participant default, ASX will port or remit the same or equivalent assets attributed to an Individual Client Account.

- (iii) *The CCP's collateral holding arrangements should be bankruptcy remote*

ASX does not intend to change its collateral holding arrangements as part of the enhancements covered by this Consultation Paper.

Only two respondents to ASX's July 2014 consultation indicated a preference for the development of a full segregation option. ASX considers that the proposed enhancements to the existing client clearing account structure outlined in this Consultation Paper will deliver Clients many of the same protections and benefits that are available through full

segregation, without incurring the significant additional costs and operational overheads for both Clearing Participants and ASX that full segregation would entail. ASX will separately consider the potential future development of full segregation structures.

### ASX Clear (Futures): Key Features of the enhanced Client Account offering

In order to enable excess customer cash and non-cash collateral for derivatives to be held directly with ASX Clear (Futures) for a Client Account and to facilitate asset attribution, ASX proposes to make available an enhanced Client Account offering with the following key features:

Key Features	Description
Optional Protection – applies ICA only	<p>A Clearing Participant will have the ability (but not the obligation) to instruct ASX Clear (Futures) to attribute assets (comprising eligible cash and non-cash collateral) to one or more of its Individual Client Accounts. This option is not available for Omnibus Client Accounts.</p> <p>The Clearing Participant will be able to update its instructions to ASX Clear (Futures) to attribute assets to an Individual Client Account at any time.</p>
Clearing Participant will continue to post assets with ASX	<p>Assets will continue to be lodged with ASX Clear (Futures) by Clearing Participants, not by Clients directly. Assets lodged with ASX Clear (Futures) by the Clearing Participant on behalf of its Clients will not necessarily be the same assets which are lodged by Clients with the Clearing Participant.</p>
ICA will protect actual assets and excess collateral	<p>Assets that a Clearing Participant has lodged as collateral in respect of its Client Clearing Account and which the Clearing Participant instructs ASX Clear (Futures) to attribute to an Individual Client Account:</p> <ul style="list-style-type: none"> <li>will be attributed by ASX Clear (Futures) to that account. Accordingly, actual assets rather than value will be attributed to an Individual Client Account, even though all Client collateral will continue to be comingled in the Clearing Participant's Client Clearing Account.</li> <li>can be less than, equal to, or more than the value of Initial Margin calculated by ASX Clear (Futures) in respect of the positions in that Individual Client Account from time to time. Accordingly, excess collateral can be held for that account directly with ASX Clear (Futures).</li> </ul> <p>ASX will not mandate that Clearing Participants pass-through excess Client collateral to ASX Clear (Futures).</p>

Key Features	Description
<p>If Clearing Participant defaults, ASX will port or remit Collateral Value for an ICA</p>	<p>In the event of a Clearing Participant default, ASX Clear (Futures) will port (with open positions) to an Alternate Clearing Participant or remit to the Client (or Nominated Person) the greater of:</p> <ul style="list-style-type: none"> <li>• the ASX-haircut value of all cash and non-cash assets (if any) attributed by ASX Clear (Futures) to the Individual Client Account as at the time at which the Clearing Participant defaults; and</li> <li>• the value of Initial Margin calculated by ASX Clear (Futures) in respect of an Individual Client Account as at the last end-of-daytime at which the Clearing Participant settled its Initial Margin obligations.</li> </ul> <p>This will be the Collateral Value of an Individual Client Account. If the Individual Client Account cannot be ported, ASX Clear (Futures) will remit to the Client (or the Nominated Person) the Collateral Value less any close-out costs attributable to that Individual Client Account.</p>
<p>If Clearing Participant defaults, ASX will port or remit notified assets in specie</p>	<p>If cash and non-cash assets are attributed to an Individual Client Account, ASX will discharge its obligation to port or remit Collateral Value for an Individual Client Account by transferring or remitting those attributed assets (or equivalent assets) (together with cash, if the ASX-haircut value of attributed assets is less than the value of Initial Margin), subject to the realisation of some or all of those assets (as required) in circumstances where:</p> <ul style="list-style-type: none"> <li>• the Client has Individual Client Accounts for both ASX 24 Exchange Traded Futures and OTC Interest Rate Derivatives and these Individual Client Accounts will be ported to different Alternate Clearing Participants; or</li> <li>• porting is unavailable and:                         <ul style="list-style-type: none"> <li>○ the realisation of some or all of those non-cash assets is required to satisfy close-out costs allocated to the Individual Client Account; or</li> <li>○ ASX Clear (Futures) is unable to transfer those non-cash assets to the Client (or Nominated Person) due to lack of timely, complete or valid transaction instructions.</li> </ul> </li> </ul>

**Annexure 1** of this Consultation Paper sets out a high level comparison of ASX's existing and enhanced Individual Client Account offering.

## ASX Clear - Enhanced Client Account Structures

### ASX Clear: Key Features of the enhanced Client Account offering

ASX Clear already makes available a Client Account structure that enables its Clearing Participants to offer their exchange traded options (ETO) Clients an individual account for separate identification and protection of individual customers' gross positions and collateral (including excess non-cash collateral). However, ASX Clear does not currently accept excess customer cash collateral.

In response to the RBA's supplementary interpretation, ASX intends to amend the ASX Clear Operating Rules to:

- enable excess customer cash collateral for ETOs to be held directly with ASX Clear; and
- clarify that Cash Cover and Excess Cash recorded for an ETO Client Account cannot be used by ASX Clear towards satisfaction of obligations of the Clearing Participant in respect of another Client's account. This amendment will resolve any existing ambiguity in relation to the segregation of Client cash collateral.

ASX proposes to make available an enhanced ETO Client Account offering with the following key features:

Key Features	Description
Optional lodgement of Excess Cash for ETO Client Accounts	<p>A Clearing Participant will have the ability (but not the obligation) to notify ASX Clear of a total cash amount to be recorded in respect of one or more of its ETO Client Accounts.</p> <p>The Clearing Participant will be able to notify ASX Clear of changes to the total cash amount to be recorded in respect of an ETO Client Account on an ongoing basis.</p>
ASX Clear will determine the Excess Cash to be credited to an ETO Client Account	<p>ASX Clear will determine the Excess Cash to be credited to an ETO Client Account from time to time taking into account:</p> <ol style="list-style-type: none"> <li>the Initial Margin and other margin obligations of the Clearing Participant in respect of that Client Account;</li> <li>any non-cash collateral provided by the Clearing Participant in respect of that Client Account; and</li> <li>the total cash amount notified to ASX Clear by the Clearing Participant in respect of that Client Account.</li> </ol> <p>If no total cash amount is notified in respect of an ETO Client Account, then ASX Clear will record nil Excess Cash in respect of that ETO Client Account</p>

## Next steps

ASX seeks stakeholders' view on the draft amendments to the Operating Rules for the ASX CCPs. Submissions should be made by 6 February 2015.

ASX welcomes the opportunity to discuss the draft Operating Rule amendments with interested parties (refer to the contact details on page 2).



## Annexure 1: ASX Clear (Futures) - Individual Client Account (ICA) Structure

Existing - ICA		Proposed – Enhanced ICA (where CP instructs ASX Clear (Futures) to attribute cash and non-cash assets to ICA)		
<b>Client Positions Identified</b>	Yes, within ICA	Yes, within ICA		
<b>Protected Collateral Amount (“Collateral Value”)</b>	Initial Margin (IM) requirement	The Collateral Value is the greater of the: <ul style="list-style-type: none"> <li>• IM requirement; and</li> <li>• ASX value of attributed assets (may include excess collateral)</li> </ul>		
<b>Collateral Value calculated at</b>	Prior settled end of day IM requirement in base currency	IM requirement: prior settled end of day in base currency Attributed assets: recorded by ASX Clear (Futures) as at time of the Clearing Participant’s default		
<b>Clearing Participant Default Scenario</b>				
<b>Porting Window</b>	Up to 24 hours for futures, 48 hours for OTC (including cross margined futures positions)		Up to 24 hours for futures, 48 hours for OTC (including cross margined futures positions)	
<b>Intraday ICA Margin Payments paid prior to default</b>	Retained within Defaulting Clearing Participant’s Pooled Client Clearing Account		Collateral Value for intra-day margin is not segregated at ICA level, except to the extent collateral assets are attributed to an ICA prior to default	
	<b>Ported</b>	<b>Porting not available</b>	<b>Ported</b>	<b>Porting not available</b>
<b>Cash collateral</b>	IM requirement in base currency ported to Alternate Clearing Participant	IM requirement in base currency returned to Client (less close-out costs)	Collateral Value including attributed assets ported to Alternate Clearing Participant	Collateral Value including attributed assets returned to client (less close-out costs)
<b>Non-cash collateral</b>	Liquidated. Value of IM requirement ported to Alternate Clearing Participant in cash	Liquidated. Value of IM requirement (less close-out costs) returned to Client in cash	Attributed non-cash assets are included in Collateral Value ported to Alternate Clearing Participant	Attributed non-cash assets are included in Collateral Value returned to client. Partial liquidation of non-cash assets (as necessary) to cover close-out costs
<b>Excess</b>	Retained in the Defaulting CP’s Pooled Client Clearing Account	Retained in the Defaulting CP’s Pooled Client Clearing Account	Included in the Collateral Value ported to Alternate Clearing Participant	Included in the Collateral Value (less close-out costs) returned to client.