

ASX REDUCING RED TAPE CONSULTATION FEEDBACK FORM

Your Name:	Marija Pajeska				
Title/Position:	Director				
Organisation:	Pajeska Group Pty Ltd				
Affiliation with ASX:	External Compliance Consultant for various ASX24 Principal Traders				
Responding for the following ASX participation type(s): <i>(tick all applicable)</i>	<input type="checkbox"/> ASX	<input checked="" type="checkbox"/> ASX24	<input type="checkbox"/> ASXC	<input type="checkbox"/> ASXCF	<input type="checkbox"/> ASXS
	<input type="checkbox"/> Principal Trader	<input checked="" type="checkbox"/> Principal Trader	<input type="checkbox"/> Direct <input type="checkbox"/> General	<input type="checkbox"/> OTC	<input type="checkbox"/> General <input type="checkbox"/> Account <input type="checkbox"/> PISP

Subject	Proposed action	Purpose	Do you agree with the proposed action? Y/N/Unsure	Comments
Standardise & streamline ASX's admission process				
Application form	Align rules to allow the application form for admission as a participant to be prescribed by ASX rather than set out in the Procedures	Alignment	Y	We have no comments in relation to the rule however note that the application form is quite extensive and does not allow for the removal of sections which are not applicable or in some cases you are unable to accurately respond to the question as the options available are not relevant.
AFSL requirements	Align rules to recognise that not all participants require an AFSL (eg those that have the benefit of ASIC Class Order relief)	Alignment	Y	Principal Traders of ASX24 currently do not require an AFSL and should not be obliged to pay unnecessary legal costs to provide evidence to ASX when this is the industry standard. An ASX24 Principal Trader would not be granted an AFSL based on the services they provide so legal advice should not be required. I note that a statutory declaration has to be provided under procedure 1000(d) which partly addresses this however ASX may consider including a statement that the applicant to the best of their knowledge does not require an AFS Licence or licence in the foreign jurisdiction.

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Business integrity requirements	Align business integrity requirements to recognise that ADIs and applicants holding an AFSL are subject to business integrity regimes administered by APRA and ASIC and can meet ASX's business integrity requirements by confirming compliance with those regimes	Alignment and reduce red tape	Y	No comment
Organisational requirements	Simplify and shorten the form of "organisational competence" certification that applicants for admission to the ASX and ASX 24 markets are required to provide under Procedure 1000(e) of the ASX and ASX 24 Operating Rules and replace the admission requirements around management plans and structures that currently apply to the ASX Clear, ASX Clear (Futures) and ASX Settlement facilities with the same form of certification	Alignment and reduce red tape	Y	Proposal does not take into account that some of the requirements (ie. ASIC RG104 and ASIC RG105) do not apply to an applicant that is not an ADI or AFS Licensee. We propose a slight amendment to the wording 'In providing this certification to the Exchange the applicant must have regard to <u>the following as they apply to its operations:</u> '
Outsourcing agreement	Remove the requirement that applicants provide copies of material outsourcing service agreements as part of the admission process	Reduce red tape	Y	Copies of such agreements add no benefit as they can be changed from time to time.
Organisational competencies - fair and orderly & operational efficiency	Simplify the drafting of, and remove the duplication concerning, these organisational competency requirements for ASX and ASX 24 participants	Simplification	Y	Provided that due consideration is given to what would be considered appropriate if an ASX24 Principal Trader is required to demonstrate to the ASX the basis on which the certification is provided, ie. what documentation, management plans and structures would be acceptable for an operation which involves one person
Requirement for ASX/ASX 24 applicants to warrant compliance with ASIC MIR management requirements	Remove the requirement for participants to warrant that they are in compliance with the ASIC MIR management requirements (this is a matter supervised by ASIC).	Reduce red tape	Y	No comment
ASX/ASX 24 admission requirements regarding capital	Delete the reference to the transitional capital rules from the list of admission requirements for ASX and ASX 24 participants (these no longer have any force or effect since ASIC took over responsibility for supervising the capital requirements of market/trading participants in 2011)	Reduce red tape	Y	No comment

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Principal traders	Remove the provisions imposing alternative admission requirements on principal traders and harmonise their eligibility requirements with those of other market/trading participants	Alignment and reduce red tape	Y	Provided that due consideration is given to what would be considered appropriate if an ASX24 Principal Trader is required to demonstrate to the ASX the basis on which the certification is provided, ie. what documentation, management plans and structures would be acceptable for an operation which involves one person
Market makers	Amend the ASX Operating Rules to recognise that not all ASX market makers necessarily require an AFSL (eg those that have the benefit of ASIC Class Order relief)	Reduce red tape	Y	Potentially add that where there is ambiguity the ASX will adopt current standard industry practice to ensure a level playing field is maintained or as previously mentioned incorporate a statement in the Statutory Declaration submitted by an ASX24 Principal Trader that to the best of their knowledge does not require an AFS Licence or licence in the foreign jurisdiction.
ASX's discretion to grant or refuse admission	Harmonise ASX's discretionary powers to grant or refuse admission across all rulebooks	Alignment	Y	No comment
Admission provisions generally	Align the admission regime for ASX Clear (Futures) participants with the regime applicable to ASX Clear participants in ASX Clear Operating Rules 3.1.1 - 3.1.6 (note that this will also involve consequential amendments to the ASX Enforcement and Appeals Rulebook to confer a right of appeal against decisions to impose conditions on the admission of an ASX Clear (Futures) participant)	Alignment	Y	No comment
A uniform regime for foreign participants				
Registration as a foreign company	Align rules to remove the requirement to be incorporated as a company or registered as a foreign company carrying on business in Australia and only require applicants to be a body corporate carrying on business in its own right and not as trustee of trust	Alignment and reduce red tape	Y	No comment
Overseas licence requirements	Amend the admission requirements to include a further requirement that participants that are incorporated or carry on business outside Australia must hold any necessary foreign licence for that purpose	Alignment	Y	How will the ASX establish what licence is required in the foreign jurisdiction or will it rely on the information provided by the Applicant.

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Conditions ASX can impose on participants incorporated or carrying-on business outside Australia	Align the admission requirements to include in the Procedures the standard conditions that ASX is likely to impose on the admission of applicants incorporated or carrying on business outside Australia	Alignment	Y	No comment
A uniform regime for offshoring and outsourcing				
Overseas activity: notification	Introduce a uniform regime for regulating offshoring and outsourcing based on the existing provisions in ASX & ASX24 Operating Rules 1002 and 6400-6403 and the related Procedures, ASX Clear Operating Rules 3.8.1 and 4.19.1 – 4.19.4 and ASX Settlement Operating Rule 4.12.2	Alignment	Y	No comment
Liability for acts or omissions of employees of related bodies corporate and other persons involved in the participant's business	Adopt a standard definition of "employee" that includes employees of related bodies corporate involved in the participant's business and align the liability provisions across all rule books	Alignment	Y	No comment
Removing "responsible executives" from the ASX Clear rules				
Responsible executives	Remove the requirement for participants in the ASX Clear facility to have "responsible executives" (note that this will also involve consequential amendments to the ASX Enforcement and Appeals Rulebook)	Reduce red tape	Y	No comment
Simplifying and aligning ASX's notification requirements				
Change of name	Harmonise the requirement to notify ASX of change of names	Alignment	Y	No comment
Change of address	Harmonise the requirement to notify ASX of change of address	Alignment	Y	No comment
Material business change	Harmonise the requirement to notify ASX if there is a material change in information concerning a participant's business	Alignment	Y	No comment

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Provision of incomplete/ inaccurate/ misleading information	Harmonise the requirement to notify ASX of information previously provided that is incomplete, inaccurate or misleading	Alignment	Y	No comment
Event of default	Harmonise the requirement to notify ASX of events of default	Alignment	Y	No comment
Solvency	Harmonise the requirement to notify ASX of an event that will adversely affect a participant's financial position or solvency	Alignment	Y	No comment
Self-reporting of significant breaches	Harmonise the requirement to notify ASX of significant breaches of its rules and procedures	Alignment	Y	No comment
Communication with ASX	Harmonise the requirement to notify ASX as soon as practicable when a participant is unable to send messages to/from ASX	Alignment	Y	No comment
Appointment of authorised signatories	Update and align the authorised signatory notification requirements across all rulebooks	Alignment	Y	No comment
Appointment/ removal/ resignation of directors	Harmonise the requirement to notify ASX of the appointment, resignation or removal of a director	Alignment	Y	No comment
Legal proceedings	Harmonise the requirement to notify ASX of legal proceedings	Alignment	Y	No comment
Regulatory action	Harmonise the requirement to notify ASX if a participant is informed of regulatory action against it or its employees	Alignment	Y	No comment
Notifications regarding professional indemnity insurance	Remove all requirements for ASX and ASX 24 participants to provide copies of PI insurance policies, certificates of renewal and other information about insurance from the ASX and ASX 24 Operating Rules (these matters are now regulated by ASIC under the ASIC Market Integrity Rules). Also remove requirements for ASX Clear participants to provide copies of PI insurance policies and certificates of renewal	Alignment and reduce red tape	Y	No comment

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Change in auditor	Delete the requirement to notify ASX of changes in auditors from the ASX Operating Rules as the obligation is related to capital-reporting, a matter which is now supervised by ASIC. Harmonise the requirement to notify ASX of changes in auditors in the ASX Clear and ASX Clear (Futures) Operating Rules	Alignment and reduce red tape	Y	No comment
Change to participant's financial year end	Delete the requirement to notify ASX of changes to financial year end from the ASX Operating Rules as the obligation is related to capital-reporting, a matter which is now supervised by ASIC. Harmonise the requirement to notify ASX of changes to financial year end in the ASX Clear and ASX Clear (Futures) Operating Rules	Alignment and reduce red tape	Y	No comment
Licences	Harmonise the requirement for a clearing or settlement participant to provide ASX with a copy of any licence authorising it to carry on business as a participant and to notify ASX of any changes to such a licence	Alignment	Y	No comment
Annual submission of FS 71 Audit report	Replace the requirement for ASX Clear and ASX Clear (Futures) participants to lodge an ASIC Form FS 71 audit report annually with an obligation to notify ASX if a significant issue is identified by the auditor in the report	Reduce red tape	Y	No comment
Annual submission of group structure chart	Introduce new rules requiring ASX Clear and ASX Clear (Futures) participants to submit to ASX annually a group structure chart to replace the time-consuming process of ASX making annual requests for such charts	Reduce red tape	Y	No comment
Change in control	Harmonise the requirement for ASX Clear and ASX Clear (Futures) participants to notify ASX of a change in control.	Alignment and reduce red tape	Y	No comment
Management structure	Remove the requirement for ASX Clear and ASX Settlement participants to maintain a documented management structure and, in the case of ASX Clear participants, to notify ASX of changes to that management structure	Reduce red tape	Y	No comment
Key risks & internal systems statement	Remove the requirement for ASX Clear participants to submit a "key risks & internal system statement"	Reduce red tape	Y	No comment

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Management structure	Remove the requirement for ASX Clear participants to notify ASX of changes to a participant's management structure	Reduce red tape	Y	No comment
Participants clearing market transactions through additional/multiple AMOs	Remove the requirement in the ASX Clear procedures for such participants to submit a separate statement in the form of Annexure 3.1.8 and a separate acknowledgement in the form of Annexure 3.2.3	Reduce red tape	Y	No comment
Attestation by CPs clearing for trading participants utilising multiple CPs	Remove the requirement in the ASX Clear procedures for such participants to submit a separate attestation in the form set out in Annexure 3.2.2	Reduce red tape	Y	No comment
Annual director's declaration	Remove the requirement for ASX Clear (Futures) participants to submit an annual directors declaration with their Form 1 and Form 2	Reduce red tape	Y	No comment
Changes to partners and shareholders	Remove the requirement for ASX Clear (Futures) participants to notify ASX of changes to partners and shareholders	Alignment and reduce red tape	Y	No comment
Third party providers	Remove the requirement for a settlement participant to notify ASX of a change in third party provider (if material, this will be covered by the requirement to notify ASX of a material change in information concerning the participant's business)	Reduce red tape	Y	No comment
Other reductions in compliance burden				
Clearing participants professional indemnity insurance	Harmonise the PI insurance requirements for ASX Clear and ASX Clear (Futures) participants	Alignment and reduce red tape	Y	No comment
Exigo Settlement Application Form	Remove the prescribed Exigo Settlement Application Form from the ASX Clear Procedures (this is administrative in nature and need not form part of the Procedures).	Reduce red tape	Y	No comment
Change in control	Remove the requirement for an ASX Clear (Futures) participant to seek ASX's approval for a substantial change in control	Alignment and reduce red tape	Y	No comment

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Other amendments				
Third party providers	Remove the provision that a settlement participant is responsible for third party providers under the ASX Settlement Operating Rules (this is now covered by ASX Settlement Operating Rule 6.2.1 mentioned in the item immediately above)	Reduce red tape	Y	No comment
Not to employ persons if they have been involved in a rule breach	Delete the prohibition on ASX Clear (Futures) participants from employing someone who has been involved in a breach of the Rules without the prior approval of ASX	Alignment and reduce red tape	Y	No comment
Maintenance of trading records	Delete the requirement for an ASX Clear (Futures) participant to maintain separate internal records of its own orders and trading (this is regulated by the Corporations Act)	Reduce red tape	Y	No comment
Dealing on behalf of staff of other clearing participants	Remove the existing constraints in the ASX Clear (Futures) Rules prohibiting dealings on behalf of staff of other clearing participants	Reduce red tape	Y	No comment
Marketing by ASX Clear (Futures) participants	Remove the existing constraints in the ASX Clear (Futures) Rules regarding advertising and unsolicited business communications	Reduce red tape	Y	No comment
Transitional provisions for ASX and ASX 24 markets	Delete Section 8 from the ASX and ASX 24 Operating Rules	Simplification	Y	No comment
Transitional arrangements for partnerships in ASX Clear	Delete transitional rules for partnerships – ASX Clear no longer has any partnerships as participants	Simplification	Y	No comment
Representative requirements	Delete the redundant representative requirements in ASX Clear Operating Rule 4.9 (these are no longer necessary having regard to the removal from the Corporations Act of the notion of 'proper authorities' and the proposed removal of "responsible executives" from the ASX Clear rule framework)	Obsolete	Y	No comment

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Redundant waiver provisions	Remove the redundant provisions regarding admission waivers (the general provisions regarding waivers in ASX Settlement Operating Rule 3.3 cover the same field)	Simplification	Y	No comment