

ASX 24 and ASX Clear (Futures) – Change to position reporting framework and review and refresh of operating rules

**Response to consultation feedback
on proposed amendments to the
ASX 24 Operating Rules and
Procedures and ASX Clear
(Futures) Operating Rules and
Procedures**

15 November 2024



ASX is available to meet with interested parties for bilateral discussions on these matters.

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Response to consultation feedback

On 13 May 2024, ASX released a [Consultation Paper](#) seeking feedback on proposed amendments to the ASX 24 Operating Rules and Procedures and ASX Clear (Futures) Operating Rules and Procedures that relate to:

- the reporting of Open Positions in ASX 24 Derivatives Market Contracts (and related changes); and
- the five year review and refresh of the ASX Clear (Futures) Operating Rules and Procedures.

ASX received submissions from 6 stakeholders including Clearing Participants (CPs) and industry bodies. Some of the feedback received in these submissions related to matters that were not the subject of consultation. ASX is considering those matters and will respond to stakeholders bilaterally. Where the feedback did relate to the matters the subject of the consultation ASX's responses are set out in **Schedule 1**.

As a result of the feedback received ASX intends to make the amendments outlined below.

Amendments as a result of feedback

1. Amendments to the reporting framework for Open Positions in ASX 24 Derivatives Market Contracts (and related changes)

1.1. Terminology changes

In the Consultation Paper, ASX proposed to adopt new terminology to distinguish between Accounts maintained by the CCP and CP in their respective systems. ASX received feedback that CPs preferred ASX to align terminology with global practice. Accordingly, ASX has replaced the proposed term Confidential Accounts with Undisclosed Accounts to align with other jurisdictions as well as reverted to Individual Account (which was proposed to change to Unique Account) and Omnibus Account (which was proposed to change to Pooled Account). ASX has also taken the opportunity to clarify that the DBOR Controller is the order placer, and would expect it to be the legal entity, and not an individual within the legal entity.

1.2. Reference to Appropriate Procedures related to Undisclosed Accounts

The existing ASX 24 Operating Rules require Trading Participants to ensure that they have established appropriate procedures to obtain information relating to the identity of clients in an Affiliated Account readily (refer to Procedure 4840). In the Consultation Paper, ASX proposed to adopt the same approach and language, however, in response to feedback requesting information on what constitutes 'appropriate procedures' ASX has removed the reference to 'appropriate procedures' and replaced it with an obligation that CPs establish a basis for obtaining the Beneficial Owner(s) that relate to the undisclosed accounts. This may include providing this information to ASX directly.

1.3. Suspense Accounts

In the Consultation Paper, ASX proposed to clarify the use of Suspense Accounts. Feedback indicated that some CPs maintain an 'affiliate' account structure which means that they would not be able to meet the requirements. Accordingly, ASX has removed the proposed rules.

1.4. Notifications where an internal transfers result in a change in Open Interest by 5%

In the Consultation Paper, ASX proposed to introduce a notification requirement where an internal transfer created a change in Open Interest of 5% due to the close out of Back-to-Back position during the life of the contract. In response to feedback that this requirement would be overly burdensome and increase operational risk, ASX has removed this notification requirement.

1.5. Mandatory Reporting of DBOR Controller and LEIs associated with the DBOR Controller and Beneficial Owner

In the Consultation Paper, ASX set out a table of information required for DBOR reporting. In response to feedback, ASX has amended the table to clarify that the fields relating to DBOR Controller (where applicable), LEI of the DBOR Controller (where applicable) and LEI of the Beneficial Owner will be optional while ASX considers alternate reporting options. ASX has also confirmed that should ASX implement the proposed changes (or an alternate reporting method), CPs will have 18 months to comply.

1.6. Trading Participants impact on a Clearing Participant

In the Consultation Paper, ASX imposed a requirement on Trading Participants under ASX24OR 3401 from entering into a Derivatives Market Transaction which may impact the Clearing Participant's compliance with Expiry Position Limits. In response to feedback, ASX has removed this requirement as we recognise that Trading Participants would not be in a position to prevent this.

2. ASX Clear (Futures) Operating Rules Review and Refresh

1.7. Updating Recovery contacts and BPC Officer

In the Consultation Paper, ASX proposed that CPs would have an obligation to update Recovery contacts and BCP Officers within 10 Business Days (Procedure to FR 4.14(p) and 4.2(f)). Several CPs recommended that ASX align the notice period with the 28 day notice period that ASIC requires for director changes. ASX has adopted this feedback and will extend the period within which notification of changes to directors, Recovery contacts and BCP Officers can be made to 28 days.

1.8. Scope of information request power

In the Consultation Paper, ASX proposed a new power that CPs provide ASX Clear (Futures) with any information that it reasonably requests within the time specified in the request (FR 13.1). In response to feedback, ASX has limited the new power to information that relates to the CP's business in its capacity as a CP.

1.9. Express power to sell a defaulter's portfolio

In the Consultation Paper, ASX proposed to introduce a new express power allowing ASX Clear (Futures) to sell a defaulter's portfolio rather than auction or close out (refer to FR 72.1(ab)). Feedback indicated that CPs were concerned that ASX might sell a portfolio directly to a Client without the prior approval of the Client's CP. To address CP concerns, ASX has amended the rules to contemplate the prior approval of a CP is required.

1.10. Automatic Suspension

In the Consultation Paper, ASX did not propose to make any changes to the framework for suspensions. However, an ADI subject to APRA Prudential Standard CPS 900 (Resolution Planning) raised concern about the impact of an automatic suspension under FR 10.1 on APRA's ability to resolve the ADI in an orderly manner. ASX appreciates the concern raised and proposes to amend FR 10.1 to recognise that a CP that is an ADI will not be automatically suspended simply because a statutory manager is appointed. However, it will still follow that if ASX Clear (Futures) declares a CP that is an ADI in Default (whether or not a statutory manager has been appointed) the CP will be automatically suspended.

Other feedback received

Feedback from CPs requested a 12-month implementation related to tagging of Undisclosed Accounts in DBOR Reporting. ASX has updated the proposed amendment for the implementation time to provide that the requirement will be mandatory 12 months after the ASX Clear (Futures) Operating Rules become effective.

Comments received and ASX's response to them are set out in **Schedule 1**.

Additional amendments

ASX also proposes to amend the Procedure to Futures Rule 4.2(f) (Organisational Requirements) and ASX 24 Procedure 1000(d) to add specific compliance, risk management, and security and resilience standards (as applicable) to clarify the ASX's expectations in relation to participant processes for the purpose of organisational requirements.

Revised draft rule amendments

The revised draft rule amendments incorporating the changes referred to above which have been made by ASX in response to consultation feedback (refer to yellow shading), are available below:

- [Amendments to the ASX 24 Operating Rules and Procedures](#)
- [Amendments to the ASX Clear \(Futures\) Operating Rules – Futures Rules and Procedures](#)
- [Amendments to the ASX Clear \(Futures\) Operating Rules – OTC Rules and Handbook](#) ¹

Next steps

ASX will shortly informally lodge the amended ASX 24 Operating Rules and Procedures and ASX Clear (Futures) Operating Rules and Procedures with ASIC seeking regulatory clearance. Subject to regulatory clearance, the amended ASX 24 Operating Rules and Procedures and ASX Clear (Futures) Operating Rules and Procedures are expected to take effect in Q3 2025. ASX will publish a market notice to confirm the final terms and effective date closer to the time.

ASX will update the proposed Guidance Note relating to position management under the ASX Clear (Futures) Operating Rules and aims to circulate this to CPs in Q1 2025.

¹ There are no further amendments proposed to the OTC Rules and Handbook as a result of feedback. Accordingly, this version is the same as the one consulted on in May 2024 (other than the header) but is included for completeness.

Schedule 1: Table of substantive feedback and ASX responses

No.	Key Issue	Comment	ASX Response
Part 1: Change to Position Reporting framework and related changes			
Confidential Accounts (Exceptions to Beneficial Owner reporting)			
1.	Definition - Confidential Account	Other jurisdictions use the terminology 'undisclosed' omnibus (rather than confidential account)	In response to feedback, ASX has aligned its definitions with global terminology and will refer to accounts where the Beneficial Owner is not provided as 'undisclosed' accounts.
2.	Time to implement confidential account framework	Given the system set-up, update to documentation required and legal considerations, implementation would require at least 12 months	ASX will provide CPs with 12 months to implement this requirement from the effective date of the rules.
3.	Confidential Accounts providing same information as DBOR reporting (FR 46A)	Is the confidential account required to provide the same information as required under the DBORs, including controller and LEIs?	Yes - this is a requirement under the rules today. The undisclosed accounts will still be required to provide the information in the same format as CPs do today.
4.	Inability to compel confidential accounts to provide information (FR 46A)	What happens if a confidential account fails to provide information as required?	As is the case under the rules today, it is expected that CPs work with their clients to provide the information to ASX as and when required. To date, ASX has requested this information in limited circumstances and we expect this will also be the case in the future.
5.	Appropriate Procedures (FR 46A)	Provide additional information on what constitutes 'appropriate procedures' under Procedure 46A(2)(a)(iv) to give CPs greater certainty	ASX has amended Procedure 46A(2)(a)(iv) to remove the reference to 'appropriate procedures' and replaced it with an obligation that CPs establish a basis for obtaining the Beneficial Owner(s) that relate to the undisclosed accounts, which may include providing this information to ASX directly. Note that this obligation remains broadly the same in the proposed rule changes as it is today.
6.	Alternative solution to confidential account set-up	Could the confidential account set-up be requested on a periodic basis?	ASX has consider this as an alternative, but given the obligation is part of account onboarding and provided as part of reporting, believes the

No.	Key Issue	Comment	ASX Response
			alternative option is less efficient for both CPs and ASX to review and validate on a regular basis.
7.	Confidential Accounts report directly to ASXCLF	Recommendation that ASX leverage existing market-wide platforms accessible to counterparties with functionalities capable of supporting detailed reporting requirements. This approach aims to streamline and enhance the efficiency of the reporting process.	ASX is unable to impose the requirement for clients to report positions directly to it, as is the case in some jurisdictions. Clients can provide Open Positions to ASX directly.
Suspense Accounts (Exceptions to Beneficial Owner reporting)			
1.	Pending Accounts	CP unable to tag an affiliate account as a suspense account	ASX has removed the proposed rules relating to suspense account name structure given the 'affiliate' account structure that exists with some CPs which means that they would not be able to meet the requirements.
2.	Pending Accounts	Additional Guidance on 'House suspense' – these could be pending accounts which are classified as Client in Genium and DBORs	ASX has removed the suspense account name structure given the 'affiliate' account structure that exists with some CPs which means that they would not be able to meet the requirements.
3.	Client Account	Operational challenges prevent a broker from giving up trades (client). These should not be allocated to a House suspense as this does not provide protection	ASX has removed the suspense account requirement from the proposed rule changes.
Provision of DBOR Controller and Legal Entity Identifiers			
1.	Definition – DBOR Controller	The use of 'influence' in the definition suggests there is a third field required, rather than being the order placer	The DBOR Controller is the order placer and the definition has been amended to clarify it is the legal entity and where the trading activity is directed by a party other than the Beneficial Owner.

No.	Key Issue	Comment	ASX Response
2.	Definition – Beneficial Owner	Is the Beneficial Owner the legal owner or beneficial owner? Note that CPs consider it to be the legal owner as that is where the risk lies)	The legal owner would often be the DBOR Controller and could be also an undisclosed account. ASX needs to look through that client to understand the exposure to the ultimate owner of the position, as such it is the beneficial owner.
3.	LEI (controller and/or owner)	If an entity does not have an LEI, will this be mandated?	ASX expects most legal entities to have LEIs. Although we have made this field optional while ASX investigates alternate data feeds, should we make this reporting mandatory we would expect an LEI to be provided for legal entities.
4.	Multiple sets of static data	Can ASXCLF align with CFTC OCR reporting and utilise FIA technology?	ASX has reviewed the option to utilise OCR reporting which was established for CFTC reporting requirements. ASX has made the reporting of DBOR Controller and Beneficial Owner in separate fields optional while it investigates whether the reporting could be provided by FIA Tech or other options.
5.	Controller	Where an omnibus account is maintained, how does the account reflect multiple controllers?	ASX expects that a DBOR Controller will be a legal entity, and not a natural person. Accordingly, we expect there will be only one account per controller. ASX does not expect that CPs will submit the controller where the account is tagged as an omnibus account.
6.	Omnibus – Confidential Accounts	Can ‘omnibus’ accounts where the CP has no visibility to the beneficial owner be classified as ‘confidential’ accounts?	ASX confirms that where an ‘omnibus’ account is not identified as that of the beneficial owner, and where the client is not prepared to provide the beneficial owner(s) for commercial sensitives, these can be tagged as ‘undisclosed’ accounts.
7.	Time to Implement – splitting of controller and owner	Given the system set-up and update to documentation required, CPs would require at least 12-18 months for implementation	Although ASX has made the reporting of DBOR Controller and Beneficial Owner (in separate fields) optional while it investigates other methods to obtain the Controller/Owner information, ASX has provided in the procedures that it will give CPs 18 months to implement changes should the obligation come into effect.

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8.	Confidential Accounts - LEIs	Will confidential accounts require similar LEI information?	ASX confirms confidential accounts will be required to provide LEI information per the operating rule requirements.
9.	Time to implement - LEIs	CPs would need at least 12 months, to undertake system builds and enhancements	Although ASX has made the reporting of DBOR Controller LEI and Beneficial Owner LEI (in separate fields) optional while it investigates other methods to obtain the Controller/Owner information, ASX has provided in the procedures that it will give CPs with 18 months to implement changes should the obligation come into effect.
DBOR – provision of information/ file format			
1.	PGP is outdated	Using PGP is outdated technology, and the software required has known vulnerabilities. File encryption via FTP is not common practice in the market, as FTP itself provides secure file transfer capabilities.	ASX will take this into consideration
Daily Close-Out			
1.	Terminology changes	ASX noted mixed views on this proposed change, with some CPs raising the potential to deviate from global standards creating complexity and confusion and the potential to have documentation updated. CPs queried whether there was a benefit in making these changes.	In response to this feedback, ASX has changed the terms as follows: Individual Account (replacing Unique Account); and Omnibus Account (replacing Pooled Account).
2.	Three-day notification for internal transfers resulting in 5% net-down	All participants and industry bodies advised that this was overly burdensome and increased operational risk, particularly in the less liquid contracts and noted that Clients make the request same day.	In response to feedback, ASX has removed the notification requirement relating to internal transfers.
3.	Maintaining Commodity Accounts in DBORs at gross	Is there an ability for ASX to operate Commodity Accounts at a gross level?	Information submitted in the DBORs needs to align with what is in Genium to ensure that ASX can rely on the information for its monitoring.

No.	Key Issue	Comment	ASX Response
4.	Net-down at beneficial owner level	Net-downs are very complex compared to the US & Europe. Can ASX consider having the net-down at beneficial ownership level and not at the trading desk level?	As CPs are aware Genium is used as the source of Open Interest on ASX 24. While this remains the source, the rules will require CPs to net-down at the trading desk level to ensure the integrity of Open Interest. Furthermore, this structure is required given ASXCF's approach to margining is on a net-basis and not gross (which is the model in those jurisdictions).
5.	Preventing internal transfer prior to expiry	As a potential alternative to notification, the rules should be amended to prevent internal transfers before expiry.	ASX has removed the notification requirement related to internal transfers.
6.	Use of OTC	CPs should be allowed to use OTC contracts to replicate trades across trading desks – via the mechanism of an internal transfer.	ASX is aware that some CPs create 'OTC/synthetic' positions as book entries in the CPs' internal systems. ASX confirms that as these are not ASX 24 positions it therefore does not recognise them. ASX also confirms that CPs are not permitted to offset such book entries against ASX 24 Derivative Market Transactions (via net-downs), nor report them under the DBOR reporting.
Changes to Allocations and Designations			
1.	Prompt allocation	Stakeholders generally welcomed this change.	ASX intends to proceed with this change.
2.	Prompt allocation	Removing the overnight time could impact execution brokers	ASX expects that executing brokers engage with their clients to ensure prompt instructions to their CP, to allow them to take up the position.
3.	T+1 night session for EFPs	Clarification from ASX is requested on whether this change applies to the t+1 night session of EFPs	ASX confirms that this change relates to all allocations irrespective of whether they occur on market or as a trade report
Position and Exercise Limits			

No.	Key Issue	Comment	ASX Response
1.	Requirement to monitor and abide by expiry position limits	Clarification is sought in the procedures as to where the obligation should lie when a client maintains positions at multiple clearers	ASX expects that participants inform clients when they are being onboarded about ASX's expiry position limits and that they are not set at the participant level, but rather are set at the DBOR Controller, or where there is no DBOR Controller, the Beneficial Owner level across the market. ASX will reach out to CPs where their client is exceeding the limits as they hold positions across multiple CPs.
2.	Trading Participants impact on Clearing Participant (ASX24 3401)	The proposed change may be impractical and potentially difficult to implement as market practice is not to check on position limit prior to executing and clearing orders	In response to feedback, ASX has removed the obligation that would prevent a TP from entering into a Derivatives Market Transaction which may impact the CP's compliance with Expiry Position Limits as we recognise that TPs would not be in a position to prevent this.
3.	Amendment of Market User to DBOR Controller	How is ASX using the term 'market user' in the Procedures?	ASX is using 'market user' to reflect that a market user may be the DBOR Controller or Beneficial Owner (as applicable) associated with the Open Position. We have clarified this in the Procedure.
4.	Clients who exceed expiry position limits	Requested confirmation that CPs will not be in breach of the rules if they inform clearing clients of the position utilisation	ASX confirms it will take into account the communication by CPs with their client in respect of positions in the lead up to expiry, should a market user/DBOR Controller exceed the limit.
5.	Undesirable Situations	Requested examples where a market user holds positions across multiple CPs and concerns arise.	Where a benchmark or the underlying physical market may be impacted by participants potentially closing out large positions within 1 day of expiry, ASXCLF would need to consider whether any direction to CPs could impact the Exchange's ability to ensure it operates a fair, orderly and transparent market.
Clearing Guarantee			
1.	Responsibility of guarantor (FR 11A)	If a TP has two CPs, CP A and CP B, and CP A defaults, will CP B assume responsibility for the TP's trades cleared by CP A?	A TP that is not also a CP is required to have a single guarantor CP. The guarantor CP is the clearing CP for the TP's positions if the TP's other CP(s) do not accept the TP's novated trade. If CP A is the guarantor and CP A accepts the TP's novated trade or CP B does not accept the novated trade, and CP A is declared in default by ASXCLF then the TP's novated

No.	Key Issue	Comment	ASX Response
			position will be treated as part of CP A's portfolio and managed as part of the default. The novated position may be ported (if all preconditions are satisfied), closed-out, auctioned or sold.
2.	Status of existing guarantees (FR 11A)	Could ASX please confirm that existing Clearing Guarantees need not be re-executed?	ASX confirms that existing Clearing Guarantees do not need to be re-executed. The changes to the terms of the Clearing Guarantee are intended to clarify rather than change the meaning (or application) of the Clearing Guarantee.
3.	Grains Futures Contracts Delivery Procedures (FR 65)	Supports the transfer of the Grains Client Agreement terms from the Trading Rules to the Clearing Rules.	ASX intends to proceed with the transfer the Grains Client Agreement from the ASX24OR to the ASXCFOR to align with other client agreement terms.

Part 2: ASX CLEAR (FUTURES) OPERATING RULES REVIEW AND REFRESH

Emergency Powers

1.	Undesirable Situation or Practice (FR 81.2)	The purposes set out in (a) and (b) ought to be sufficient. ASX should either delete (c) or provide guidance regarding the circumstances in which it would be relied upon	<p>ASX intends to proceed with this change. The proposed language tracks s821A of the Corporations Act that requires a CS facility licensee, to the extent that it is reasonably practicable to do so, to:</p> <ul style="list-style-type: none"> (a) do all things necessary to ensure that the facility's services are provided in a fair and effective way; and (b) comply with the Financial Stability Standards and do all other things necessary to reduce systemic risk. <p>The intention of broadening the power is to equip ASXCLF with the powers that may be necessary to comply with its obligations as a CS facility licensee (rather than simply focusing on fair, orderly and transparent trading). ASX's global benchmarking indicates that SGX has very similar powers.</p>
2.	Undesirable Situation or Practice (FR 81.2)	Emergency powers should be used cautiously. The use of tools (such as contract tear-up, VM gain haircutting, and forced position allocation/reduction/liquidation) and	ASX agrees that Emergency Powers should be used with caution.

No.	Key Issue	Comment	ASX Response
		consequences should be clearly defined. Clear guidance is crucial for participants to assess and effectively manage their risks.	The existing ASX Recovery Rules set out the recovery tools that can be used by the ASX CCPs and the circumstance of their use (these tools include VM gains haircutting and partial termination of CPs' positions to restore the matched-book). The proposed Emergency Powers for the ASX CCPs are in addition to the powers under the ASX Recovery Rules and are intended to ensure that the ASX CCPs have the requisite powers to manage situations which pose a systemic risk to the Australian financial system or which threaten the fair and effective operation of the ASX CCPs. They will exist alongside, but separate from, the Emergency Powers of the ASX Markets which are cleared by the ASX CCPs. The proposed ASX CCP Emergency Powers cover the theoretically possible set of adverse circumstances where a Market Operator does not consider it appropriate to exercise its Emergency Powers to manage these circumstances but the ASX CCP considers it appropriate so to do (reflecting the somewhat different legal/licence obligations of CCPs and Market Operators).
3.	Recovery contacts (Procedure to FR 4.14(p))	Recommends that ASX utilise mailing lists instead of individual emails to mitigate operational risks caused by turnover.	Under the proposed Procedure CPs will have an obligation to update Recovery contacts which should mitigate operational risks caused by turnover. ASX requires the details of people within the organisation that it can contact directly in the event of a recovery situation to ensure appropriate escalation.
4.	Recovery contacts (Procedure to FR 4.14(p))	Recommended that the proposal that the change in Recovery contacts be notified to ASX within 10 business days be extended to 30 days, noting internal processes run on different period bases and these roles are not likely to be a Director or Responsible Manager where the departure would be noted in a weekly report.	In response to feedback, ASX will extend the period within which notification of changes can be made to 28 days.
5.	Reasonable basis for appointment of Independent Expert (FR 4.16)	ASXCLF should be required to have a reasonable basis to conclude that an appointment is necessary (by reference to potential non-compliance with an obligation under the	ASX does not propose to make any changes to the drafting of the proposed concerning the appointment of an Independent Expert. The same rule is already included in the ASX Rules, ASX 24 Rules, ASX Clear Rules and ASX Settlement Rules. ASX will exercise its power to appoint an

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		ASXCF Rules) and should be required to disclose that basis to the CP.	independent expert in a fair and effective manner in accordance with its CS facility licence obligations.
Information request			
1.	Scope of information request power (FR13.1)	Requested inclusion of qualifier that any information request should be reasonably necessary to ensure the CP's compliance with obligations under the ASXCLF Rules.	In response to feedback, ASX intends to limit ASXCLF's new power to request information to information that relates to the Participant's business in its capacity as a Participant.
2.	Scope of information request power (FR 13.1)	Requested further clarification to link reasonableness specifically to activities within the Australian Futures markets, taking into account ASX's current extended access based on financial considerations.	ASX does not intend to limit this power to information required to ensure a participant's compliance with rules because ASX wants to ensure that it has sufficient powers to request information from a participant if it needs such information to comply with its own obligations under the Corporations Act and the Financial Stability Standards. ASX notes that its benchmarking exercise indicated that many overseas CCPs had the power to request information along the lines we consulted on including CME, SGX, ICE Clear Europe, HK Exchange. ASX intends to include the rule in the same form in the ASXCLF, ASX Clear and ASX Settlement Operating Rules.
Default Management			
1.	New default events related to membership application (FR 71.3(b) and (q))	Given the significant impact of an event of default both new (b) and (q) should include a requirement that the relevant matter (misstatement or breach of admission requirement of condition) be material and adverse, such that ASXCLF would not admit the Participant were it making a new determination.	<p>ASX intends to proceed with this change. The proposed wording aligns with the language in the ASX 24 Operating Rules and ASX Clear Operating Rules (for para (b) (Misstatement) refer to ASX24OR 5161(l) and ASXCOR 15.1.1(o) and for para (q) (Admission) refer to ASX24OR 5161(4) & ASXCOR 15.1.1(n)).</p> <p>ASX notes that the materiality qualifier was omitted by oversight from para (b) but will be included in the final rules.</p>
2.	Express power to sell defaulter's portfolio (FR 72.1(ab))	ASX should clarify:	ASX expects that in most defaults ASX will close-out or auction open positions of a defaulting participant that are not ported to an alternate CP. However, in circumstances where there are fewer participants who clear

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		<ul style="list-style-type: none"> - The specific circumstances under which the CCP can or may opt for off-market close-out or close-out arrangements with selected parties. - The criteria, methodology, and elements employed by the CCP to unilaterally determine the close-out price. 	<p>the relevant product or the product itself is not very liquid ASX may consider a sale.</p> <p>ASX expects that an off-market close-out or sale price would not be unilaterally determined but the result of a negotiation between ASX and the selected counterparty. In agreeing a close out value, ASX expects to take into account the calculation of the mid-price of the portfolio. For ETD this would be off pricing in the current market and for OTC it would be based off a mark to market valuation of the portfolio from current yield curves. The negotiated price and mid-price would then be presented to the Default Management Committee (DMC) for its agreement. The DMC would consider a range of factors when agreeing to the price including:</p>
3.	Express power to sell defaulter's portfolio (FR 72.1(ab))	Strongly recommend ASX to introduce clear criteria on when direct sell for defaulter's portfolio would be applied (like market share of largest participant, Open Interest, number of active participants) before Auction.	<p>ASX expects that an off-market close-out or sale price would not be unilaterally determined but the result of a negotiation between ASX and the selected counterparty. In agreeing a close out value, ASX expects to take into account the calculation of the mid-price of the portfolio. For ETD this would be off pricing in the current market and for OTC it would be based off a mark to market valuation of the portfolio from current yield curves. The negotiated price and mid-price would then be presented to the Default Management Committee (DMC) for its agreement. The DMC would consider a range of factors when agreeing to the price including:</p> <ul style="list-style-type: none"> - The erosion of margin resources from the negotiated price and any subsequent impact on the default funds. - Current liquidity and volatility in the respective markets. - The size of the difference between the mid-price and the negotiated price. - The expected cost and length of time to close out via alternative methods (default broker orders or auction).
4.	Express power to sell defaulter's portfolio (FR 72.1(ab))	Recommend establishment of a Default Management Group (as exists for OTC) to assist with choice of tool and pricing. CPs have a keen interest in the default fund as their money is at risk.	ASX does not propose to establish a DMG as part of the governance framework for managing the default of a Futures Participant. The DMG for OTC was primarily set up to provide additional skills and experience in hedging, pricing and executing OTC products. ASX considers that it has sufficient in-house expertise to manage the default of a Futures-only CP. ASXCLF also notes that it has \$120m in the first tranche of the waterfall and is therefore incentivised to manage any default in a way that minimises the use of the default fund.

No.	Key Issue	Comment	ASX Response
5.	Express power to sell defaulter's portfolio (FR 72.1(ab))	Clients should only be permitted to participate in auctions and not the direct sale of a defaulter's portfolio. This ensures that a CP's consent is required.	ASX would not sell a portfolio directly to a Client without the prior approval of the Client's CP. To address Participant concerns, ASX proposes to amend FR 72.1(ab) to contemplate this rather than exclude Clients entirely.
6.	Business Continuity arrangements (Procedure to FR 4.2(f))	Recommended that the proposal that the change in BCP officer be notified to ASX within 10 business days be extended to 30 days, noting internal processes run on different period bases and this role is not likely to be a Director or Responsible Manager where the departure would be noted in a weekly report.	In response to feedback, ASX will extend the period within which notification of changes can be made to 28 days.
7.	Appointment of ASXCLF as Agent – porting Client positions in a default (Futures Rules 10.2-10.7)	This rule should not permit the forced allocation of positions to the replacement CP. Therefore, we recommend that ASX clarify that the transfer of positions will only occur with the consent of the replacement CP.	ASX confirms that these rules are not intended to permit the forced allocation of positions to a replacement CP. Given feedback, ASX proposes to amend the rules to make this clear (refer to further amendments to FR 10.2 and 10.5). ASX notes that the inclusion of this existing detail from Schedule 13 was only intended to ensure that this important content was treated as a rule (rather than a procedure).
8.	Appointment of ASXCLF as Agent – porting Client positions in a default (Futures Rules 10.2-10.7)	ASX should confirm that the existing timelines for transfer arrangements (24 hours for listed contracts and within 48 hours for OTC contracts) remain applicable.	ASX confirms that the amendments to FR 10.2-10.7 do not impact the existing transfer timelines.
9.	Automatic suspension (FR 10.11)	An ADI subject to CPS 900 raised concern about the impact of an automatic suspension under FR 10.11 on APRA's ability to resolve the ADI in an orderly manner. It was suggested that this could be addressed by including words enabling ASX Clear (Futures) to (in its absolute discretion) determine that an automatic suspension will not apply.	ASX appreciates the concern raised. In response ASX proposes to amend FR 10.1 to recognise that a CP that is an ADI will not be automatically suspended simply because a statutory manager is appointed. However, it will still follow that if ASXCLF declares a CP that is an ADI in Default (whether or not a statutory manager has been appointed) the CP will be automatically suspended..
10.	Enforcement action (FR 9A.1.1)	The wording of FR 9A.1.1 suggests that ASXCLF will always take enforcement action for breaches of rules and procedures. Please clarify.	ASX proposes to amend FR 9A.1.1 to state: "ASX Clear (Futures) shall undertake the detection, investigation and determination of potential and

No.	Key Issue	Comment	ASX Response
			alleged breaches of the Rules and the provision of fair procedures and <u>may</u> take enforcement action in relation to such breaches”
11.	Licensed Software (FR 16.2)	Under amended FR 16.2 a Participant cannot use the Licensed Software in an unlawful manner or for an unlawful purpose. What is the implication if a Participant breaches an Operating Rule or Market Integrity Rule (inadvertently or otherwise) when clearing on the ASX platform? Does this need to be qualified by intention?	ASX does not propose to make a change to the drafting of this rule. This is a standard term of any software licence agreement.
12.	Risk Consultative Committee (FR 20)	It appears to be inconsistent to use will and may in relation to invitations to join the Risk Consultative Committee (RCC).	There is no inconsistency in the drafting of this rule. ASXCLF has invited all CPs to attend the RCC. At this point in time ASXCLF has not invited Clients to participate in the RCC. Accordingly, the invitation to Clients has been amended to ‘may’ so that they may be invited in the future but to ensure that there is no current obligation on ASXCLF to do so in the present given its current practice.