

Australian Competition & Consumer Commission

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17 June 2003

Mr Donald Robertson
Partner
Freehills
GPO Box 4227
Sydney NSW 2001

Dear Mr Robertson

Application for Authorisation A90872 lodged by the Australian Stock Exchange in relation to Section 2 of the ASX Business Rules

I refer to the above mentioned application for authorisation lodged by the Australian Stock Exchange (ASX) on 16 May 2003 and its request that the Commission grant interim authorisation and then defer its consideration of the substantive application until a final version of Section 2 of the Business Rules is provided.

ASX's 1998 authorisation

On 1 April 1998, the Commission granted conditional authorisation to the ASX in respect of Section 2 of its Business Rules. This authorisation expired on 23 April 2003. The condition provided that authorisation for Rule 2.2.9 only would not come into force until the Commission advised the ASX that it was satisfied that the Business Rules were amended to include provisions for appeal to the Appeal Tribunal in relation to decisions by the ASX Board to reject, suspend or withdraw an application for a Designated Trading Representative. Rule 2.2.9 was not amended in this manner and accordingly was not covered by the 1998 authorisation.

Request for interim authorisation

The Commission has now considered the request for interim authorisation and has decided to grant interim authorisation to Section 2 of the ASX's Business Rules. However, interim authorisation does not extend to Rule 2.2.9 of the ASX Business Rules as this rule has not been amended in line with the condition specified in the Commission's 1998 final determination.



The Commission grants interim authorisation until it issues its draft determination on the substantive application for authorisation, at which time the interim authorisation will be reconsidered.

In granting interim authorisation the Commission requests that the ASX provide regular updates (every three months) on the status of the review process. I note that a status report was provided by the ASX on 16 June 2003.

The Commission's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the Commission. In addition it is noted that that under subsection 91(2AB) of the *Trade Practices Act*, the Commission may revoke an interim authorisation at any time. The Commission may also impose conditions at any time.


Commission's consideration of the substantive application

As requested by the ASX the Commission will defer its consideration of the substantive application until the ASX is able to provide it with a final version of Section 2 of the Business Rules. Accordingly, the Commission will begin its public consultation process with interested parties once it has received a final version of the Business Rules.

A copy of this letter will be placed on the Commission's public register.

If you have any questions in relation to this letter please contact Danielle Staltari on 02 6243 1362.

Yours sincerely

Handwritten signature of Tim Grimwade, consisting of a stylized 'T' and 'G' followed by a cursive 'C' and 'e'.

Tim Grimwade
General Manager
Adjudication Branch