



Australian Competition & Consumer Commission

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Our Ref: C2003/1039
Contact Officer: Michael Green
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16 December 2003

Ms Anna Campbell
Legal Counsel, Corporate and Commercial
Australian Stock Exchange
PO Box H224
AUSTRALIA SQUARE NSW 1215

Dear Ms Campbell

Applications for Revocation and Substitution lodged by the Australian Stock Exchange (ASX) and the ASX Settlement and Transfer Corporation (ASTC) relating to the rules governing the Clearing House Electronic Subregister System (CHES)

As outlined in our letter dated 20 November 2003, interested parties were provided with an opportunity to request a pre-decision conference or provide a written submission in relation to the Commission's draft decision with regard to the above applications for revocation and substitution. The Commission did not receive any requests for a pre-decision conference and received one written submission, from the Australian Securities and Investments Commission (ASIC). A copy of the submission is attached.

The Commission has also become aware that Table 7.1, point 4, on page 33 of the draft determination is inaccurate as the *Commonwealth Inscribed Stock Act 1911* (the CIS Act) has been amended by the *Commonwealth Inscribed Stock Amendment Act 2002* (the amendments).

The Commission understands that the amendments were designed to increase the flexibility of options for trading in Commonwealth Government Securities (CGS). They provide for the electronic creation, issue, recording and transfer of CGS. They are also designed to facilitate competition in the clearing and settlement of CGS by allowing the appointment of non-government bodies as Registrars under the CIS Act in addition to, or instead of, the Reserve Bank.

Section 14(3) of the CIS Act allows the operator of a clearing and settlement facility to be appointed as Registrar. A clearing and settlement facility is a facility that is a clearing and settlement facility for the purposes of Part 7 of the *Corporations Act 2001*. Section 24 of the CIS Act allows for the transfer of interests by electronic means.



The Commission would appreciate receiving your comments in relation to the amendments, and in particular:

- the effect of these amendments on the ASX's operations;
- what action, if any, the ASX has taken in order to comply with condition 4 of the 1998 authorisation and remove the exclusion of ASX market transactions in debt securities from clearing and settlement in CHESS; and
- whether or not the ASTC, as the clearing and settlement facility for the ASX, has been appointed as a Registrar under section 14(3) of the CIS Act.

It would be greatly appreciated if you could provide a response, including any comments in relation to the submission made by ASIC, by no later than 23 January 2004.

A copy of this letter has been placed on the public register. If you require any further information, please contact Michael Green on (02) 6243 1088.

Yours sincerely



Joanne Palisi
Director
Adjudication Branch



ASIC

Australian Securities & Investments Commission

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Our Reference: PMR2003/9961, PMR2003/9962, PMR2003/14034
Your Reference: C2003/1039

5 December 2003

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

FILE No:
DOC: 003/46656
MARS/PRISM:

Attention: Michael Green

Dear Sir

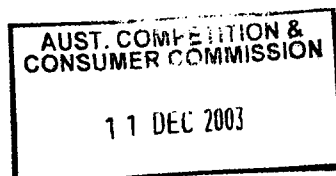
Draft Determination – Applications for Revocation and Substitution lodged by the Australian Stock Exchange Limited (ASX) and ASX Settlement and Transfer Corporation Pty Limited (ASTC) relating to the rules governing the Clearing House Electronic Subregister System (CHES)

I refer to your letter of 20 November 2003.

The Australian Securities and Investments Commission ("ASIC") has an oversight role in relation to compliance by ASX with its obligations as the holder of an Australian market licence issued under the Corporations Act. ASIC also has an oversight role in relation to compliance by ASTC with its obligations as the holder of a clearing and settlement facility licence issued under the Corporations Act.

It appears that the draft determination will promote certainty in relation to the operation of the rules of ASX and of ASTC and therefore assists ASX and ASTC in meeting their respective obligations as licensees under the Corporations Act.

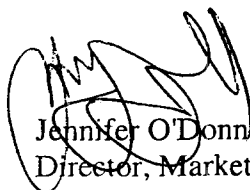
For your information, the clearing and settlement arrangements ASX may have for transactions effected on its market depends on the terms of its Australian market licence. Presently, ASX's licence requires ASX to obtain the consent of the Minister before using a clearing and settlement facility other than that operated by ASTC or



Options Clearing House Pty Limited. We note that ASX is seeking to vary the terms of its licence with effect in March 2004.

ASIC has no further comment to make in relation to the draft determination.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jennifer O'Donnell', is written over a circular stamp or seal.

Jennifer O'Donnell
Director, Markets Regulation