



ASIC

Australian Securities & Investments Commission

19 April 2013

Mr Charles Littrell
Executive General Manager
Policy, Research and Statistics Division
Australian Prudential Regulation Authority
GPO Box 9836
SYDNEY NSW 2000

Dear Charles,

QUALIFYING CENTRAL COUNTERPARTIES – ASX CLEAR AND ASX CLEAR (FUTURES)

As you are aware, in July 2012 the Basel Committee on Banking Supervision (BCBS) agreed a revised Regulatory rules text on the capital requirements for bank exposures to central counterparties (CCPs).

These rules establish the capital treatment for bank exposures to qualifying CCPs (QCCPs). A QCCP is defined as:

‘an entity that is licensed to operate as a CCP (including a licence granted by way of confirming an exemption), and is permitted by the appropriate regulator/overseer to operate as such with respect to the products offered. This is subject to the provision that the CCP is based and prudentially supervised in a jurisdiction where the relevant regulator/overseer has established, and publicly indicated that it applies to the CCP on an ongoing basis, domestic rules and regulations that are consistent with the CPSS-IOSCO Principles for Financial Market Infrastructures’ (PFMIs).

The BCBS published a set of frequently asked questions at the end of 2012, clarifying that ‘if a CCP regulator has provided a public statement on the status of a CCP (QCCP or nonqualifying), then banks will treat exposures to this CCP accordingly.’

Two ASX group entities, ASX Clear Pty Ltd and ASX Clear (Futures) Pty Ltd, operate CCPs in Australia. Each is licensed as a clearing and settlement facility under the *Corporations Act 2001* (Corporations Act). The licences, including the licence conditions, are available on the Australian Securities and Investments Commission (ASIC) website.

The Reserve Bank of Australia (RBA) and the ASIC (collectively, the Regulators) have co-regulatory responsibilities for clearing and settlement facilities, including CCPs, under the Corporations Act.

Within this framework, the RBA is responsible for determining standards for the purposes of ensuring that clearing and settlement facility licensees conduct their affairs in a way that causes or promotes overall stability in the Australian financial system, and for monitoring facilities' compliance with these standards and their obligation under the Corporations Act to do all other things necessary to reduce systemic risk.

ASIC is responsible for assessing the extent to which clearing and settlement facility licensees comply with all other obligations arising under the Corporations Act, including notably the obligation to do all things necessary to ensure that the facility's services are provided in a fair and effective way.

In February, the Regulators publicly articulated how the PFMI have been implemented in Australia. In respect of CCPs, the Regulators have taken the following actions:

- In December 2012, ASIC published revised regulatory guidance on licensing and oversight of CS facility licensees in Regulatory Guide 211 *Clearing and settlement facilities: Australian and overseas operators*. This guidance includes, *inter alia*, an allocation of primary responsibility for the PFMI between ASIC and RBA (Appendix 2).
- In November 2012, the RBA's Payments System Board approved the determination of new financial stability standards. These standards, effective from 29 March 2013, are aligned with the requirements in the PFMI that address matters relevant to financial stability.

The Corporations Act requires ASIC and the RBA to assess at least annually how well clearing and settlement facility licensees have complied with their obligations under the Corporations Act. Accordingly, the Regulators' assessments in 2013 will collectively consider compliance with these new requirements.

Together, these actions meet the condition that the relevant regulator has established and applies regulations that are consistent with the PFMI. ASX Clear Pty Ltd and ASX Clear (Futures) Pty Ltd are both licensed clearing and settlement facilities under the Corporations Act, both operate CCPs, and both are subject to these new requirements. We therefore write to advise you that we consider both these entities to be QCCPs.

The Regulators reserve the right to declare a specific CCP a non-qualifying CCP, and/or to assess a specific CCP as non-compliant with existing obligations, as appropriate.

Yours sincerely



Malcolm Edey
Assistant Governor (Financial System)
Reserve Bank of Australia



Belinda Gibson
Deputy Chairman
Australian Securities and Investments
Commission