



28 July 2020

ASX Limited
20 Bridge Street
Sydney NSW 2000

ATTENTION: Keith Purdie

By email: chessreplacement@asx.com.au

Dear Mr Purdie

ASX Consultation Paper - CHES Replacement: Revised Implementation Timetable

Chi-X Australia Pty Ltd (**Chi-X**) is grateful for the opportunity of providing a submission in response to the ASX Consultation Paper on the Revised Implementation Timetable for the CHES Replacement.

This submission is segmented as follows:

Part One: Issues raised by the CP, CHES Replacement Project and the Regulatory Expectations outlined by the Council of Financial Regulators

Part Two: Competition Implications of the Delay in the Existing CHES Programme

Part Three: Answers to the CP Questions

Part One – Regulatory Expectations

The Council of Financial Regulators has stated:

ASX should facilitate access to its cash equity CS services (including data) on commercial, transparent and non-discriminatory terms. Non-discriminatory terms in this context are terms that do not discriminate in favour of ASX-affiliated entities¹.

This statement must be interpreted to not only create an expectation of non-discriminatory access to ASX systems being provided to competitors of ASX, but also an expectation that customers of non-ASX businesses in competition with ASX, will receive the same access to cash equity clearing and settlement (CS) services as customers of the ASX businesses.

In its response to the ASX CP on the first tranche of proposed rule changes, Chi-X stated that it was not clear how the proposals in the CHES replacement programme, including those outlined in that

¹ See Section 3 on page 6 of the Policy Statement by the Council of Financial Regulators, retrieved on 28 July from <https://www.cfr.gov.au/publications/policy-statements-and-other-reports/2016/regulatory-expectations-policy-statement/pdf/policy-statement.pdf>

CP, complied with this regulatory expectation, given the impact of the proposals on ASX clients and customers in areas where ASX and Chi-X competed.

Chi-X remains of this view, particularly with respect to ASX services to be provided to issuers through the proposed issuer portal, and to mFund issuers. These ASX services have not been transparently outlined to Chi-X or made available to Chi-X issuers.

Part Two – Competition Implications of the Delay in the CHESSE Replacement Programme

In April 2019, ASX stated that ASX and non-ASX market operators would both access the CHESSE replacement system via an interface based on the FIX protocol². Given the delays in the go live date of the replacement programme, it is now timely to correct the current discriminatory access to the existing CHESSE system that is provided by ASX Clear and ASX settlement to non-ASX market operators.

It is also appropriate that the ASX enable the existing CHESSE system to be the subject of innovation and new development work where that is necessary for ongoing product development by ASX customers, including Chi-X.

Part Three – Answers to the CP Questions

Q1. Can your organisation meet the revised implementation timetable with a go-live date of April 2022? YES/NO.

The question is not able to be answered by Chi-X in a binary manner as the ability to meet the revised implementation deadline is so dependent upon additional information and events that a simple ‘yes’ or ‘no’ answer is largely meaningless.

Information and event requirements that will dictate the ability of Chi-X to meet the revised timetable include:

- (a) Sharing of information by ASX on clearing and settlement services provided to ASX issuers and which may require work by Chi-X to ensure those services are also available to Chi-X issuers;
- (b) Systems access (eg a node or access to the issuer portal as appropriate) being granted to Chi-X on a timely basis;
- (c) Availability of performance testing of ASX systems by Chi-X – including new methods of connecting to the CHESSE replacement system;
- (d) End to end industry testing that involves market operators and the issuers and participants of non-ASX markets;

² ASX currently provides different methods of access to CHESSE: ASX markets have different access to that provided to Chi-X.

- (e) The release of relevant technical specifications and product descriptions to Chi-X;
- (f) The re-establishment and engagement of ASX with the AMO Working group.

2. If you answered NO to question 1, what are the challenges for your organisation in meeting the timeline?

To the extent Chi-X did not answer yes, the challenges for Chi-X include those outlined in paragraphs (a) to (f) of the answer to question 1.

Understanding the technical and operational features of the services provided by ASX Clear and ASX Settlement to issuers and participants so that they can be available on an equivalent basis to Chi-X participants and issuers is of critical concern to Chi-X. It is a fundamental feature of the ASX business model to vertically integrate its services. This can make it difficult for non-ASX persons to identify clearing and settlement products/services³.

3. If you answered YES to question 1 are there any dependencies that ASX should be aware of, and what would be the impact to your organisation of a delay beyond April 2022?

To the extent that Chi-X did not answer 'no' to question 1, the dependencies include those outlined in paragraphs (a) to (f) of the answer to question 1

A delay beyond April 2022 has the potential for both negative and positive impacts.

Possible negative impacts include:

- The existing CHES system is dated and imposes capacity constraints on the Australian market. Delaying the implementation of replacement systems will require the Australian market to continue operating under this constraint, which has wide ranging and potentially significant impacts;
- The introduction of the innovations associated with the CHES replacement system may enable Australia to more successfully compete with offshore jurisdictions as a place to do business, resulting in any delay have a negative impact;
- Delays may impose additional implementation costs and risks on participants, including those arising from multiple 'go live' dates or duplication of work to ensure timely reviews close to launch dates.

Possible positive impacts include that a delay may:

³ We suspect it may also be difficult for ASX persons to do so.

- allow a more thorough consideration of issues raised by the replacement programme including, for example, determination of what clearing and settlement services are provided to ASX/non-ASX issuers and participants;
- allow for greater user input to the CHES replacement proposals and timetable;
- allow for appropriate focus to be given to enhancing the existing CHES system, given that it will be relied upon to provide production services for many years;
- allow participants, issuers, vendors, market operators and other stakeholders, to more effectively accommodate the impacts of COVID 19;
- minimise the risks of disruption arising from an untimely launch of the new system.

4. **If your organisation chooses to provide feedback on the rule amendments, can your organisation meet the revised timetable for providing feedback on the further rules consultation commencing in early November 2020 as set out in section 5.3?**

Yes.

If you answered no, please provide information supporting your answer. N/A

5. **How long after the go-live date would your organisation be ready to commence readiness activities (including technical accreditation and operational readiness) for features included in release 1.1 as set out in section 2.3? Specify the number of months. Please provide information supporting your answer.**

It is not clear to Chi-X which features involved in release 1.1 are properly clearing and settlement services that should also be available on the same basis to both ASX and Chi-X and also to ASX and Chi-X customers, in particular Chi-X issuers and participants. This is a fundamental issue in determining the time frame for readiness activities and needs to be clarified for Chi-X to answer this question.

I hope this submission is of assistance, please do not hesitate to contact us if you have any queries.

Yours sincerely

Chi-X Australia Pty Ltd