



15 August 2012

The Manager  
Financial Markets Unit  
Corporations and Capital Markets Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir/Madam

**CHI-X AUSTRALIA SUBMISSION ON THE DISCUSSION PAPER ISSUED BY THE COUNCIL OF FINANCIAL REGULATORS: COMPETITION IN THE CLEARING AND SETTLEMENT OF THE AUSTRALIAN CASH EQUITY MARKET**

Chi-X Australia (Chi-X) is grateful for the opportunity to comment on the discussion paper issued by the Council of Financial Regulators (CFR) on Competition in the Clearing and Settlement of the Australian Cash Equity Market (DP). The DP is of significant importance to Australia and its financial markets. Competition in the delivery of financial market infrastructure is crucial to the development in Australia of world class cost effective services for all stakeholders in our financial markets. Alternative measures such as regulation, targeted government action and monopoly services, should not and cannot be relied upon to generate those outcomes. The following observations in the Wallis Report, while made over 14 years ago, remain worthy of consideration:

*The efficiency of the financial system affects every business and individual in the nation. There are very large efficiency gains and cost savings which could be released from the existing system through improvement to the regulatory framework and through continuing developments in technology and innovation. Markets can only deliver these outcomes where competition is allowed to thrive and where consumers have confidence in the integrity and safety of the system<sup>1</sup>.*

In this submission Chi-X has comments on the following areas that apply across the consultation questions asked in the DP:

- (i) The benefits of competition;

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<sup>1</sup> Page Two, Financial System Inquiry, *Financial System Inquiry Final Report* (S Wallis, Chairman), Australian Government Publishing Service, Canberra, 1997.

- (ii) High level practical issues that may be relevant to policy initiatives on competition in clearing;
- (iii) Potential lessons learned from the introduction of competition in the secondary market trading of ASX listed securities;
- (iv) The need for clarity in the debate on some issues relating to Australia's financial market infrastructure;
- (v) Key considerations in the transition to competition in clearing.

Chi-X has also listed its response to the questions posed in the DP in **attachment one**.

### **Benefits of Competition**

Chi-X commends the CFR for taking, as its starting point, "openness to competition and foreign participation in clearing and settlement". The benefits of competition in clearing have been proven time and again in other jurisdictions. The Oxera Report prepared for the European Commission DG Internal Market and Services, measured the effects of increased competition and market integration in Europe on prices of trading and post trading services over the period 2006 to 2009. It concluded that "*on average across the financial centres, the CCP clearing cost for equities has declined from €0.37 per transaction to €0.10 per transaction- a reduction of 73% between 2006 and 2009*"<sup>2</sup>.

Chi-X receives repeated feedback from potential overseas based participants in the Australian market that clearing costs are a factor in making Australia an expensive location in which to undertake business and that competitive clearing by established global clearing houses has the potential for fundamental and lasting benefits to be delivered to the Australian market place. While the regulatory and other costs of introducing competition are obviously deserving of attention and should be managed carefully, the Australian market is sophisticated and large enough to make the transition to competition in clearing. This will enable the market to lock in the long term service level and cost benefits that have been delivered by competitive clearing elsewhere.

Clearing is an integral service component of financial markets and, as noted above, international markets have introduced competition, bringing improved pricing and innovation. Tying Australia to the fortunes of one incumbent monopoly CCP risks decoupling Australian financial centres from important developments taking place in global markets.

Competition in clearing will deliver benefits for the Australian financial market. Vested interests will argue otherwise and seek to dismiss the value of competition. Importantly, however, what

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<sup>2</sup> Oxera, *Monitoring prices, costs and volumes of trading and post trading services: report prepared for European Commission DG Internal Market and Services*, Oxera Consulting Ltd, Oxford, 2011 at paragraph A5.4.2 on page 136, retrieved from [http://ec.europa.eu/internal\\_market/financial-markets/docs/clearing/2011\\_oxera\\_study\\_en.pdf](http://ec.europa.eu/internal_market/financial-markets/docs/clearing/2011_oxera_study_en.pdf).

they will not do is address the obviously undesirable current situation of a service such as clearing being operated by a monopoly provider without appropriate controls over pricing and access. In summary, Australia must either open up clearing to competition or address the operation of that service by a vertically integrated monopoly. As the CFR will be aware from the failed SGX-ASX merger, the status quo should not be maintained.

## **High Level Practical Issues**

Chi-X is of the view that in addition to the benefits of competition, the following practical issues may also be relevant when considering policy initiatives on competition in the clearing and settlement of cash equities.

### (a) Concentration risk

Concentration risk posed by a monopoly clearing and settlement provider is significant and is most effectively addressed through the delivery of competition in contestable parts of the market. Many jurisdictions have learnt the lesson of 'too big to fail' in a brutal and unforgiving way. Australia is fortunate to be able to mitigate concentration risk in clearing by introducing competition in this area as a compliment to competition in trading.

Accordingly, the proposed changes will assist in mitigating systemic risk.

### (b) Growing the Australian market

Competition in the clearing and trading of cash equities has acted as a catalyst for growing the size of those markets in which it has been introduced. The introduction of competition in clearing of cash equities, combined with the existing competition in trading, will assist in making long term sustained improvements in the size of the Australian cash equity market so that it ceases its relative decline against other financial centres.

### (c) Settlement is a utility function

Chi-X is of the view that the entity responsible for settling cash equities should be operated as a public utility. CHES was developed using industry funds and it should be operated for the benefit of all Australian shareholders. There are global precedents for the national settlement and sub-register function being undertaken by a utility body and Chi-X is of the view that there is merit in that model being implemented in Australia. If a separation of this business from the ASX Group is not possible then Chi-X is of the view that consideration should be given to an imposed governance separation that ensures a public utility governance and operating purpose for a separate entity within the ASX Group so that it has every incentive to act in a non-discriminatory manner.



#### (d) A strong regulatory regime supporting access to monopoly infrastructure

The regulatory framework in Australia that governs access to key infrastructure operated by a monopoly has been commented upon extensively<sup>3</sup>. Chi-X is of the view that those comments are directly applicable to accessing clearing and settlement infrastructure in Australia. A party negotiating with a monopoly for the delivery of services essential to its business which is competing with that monopoly must accept sub-optimal outcomes in the absence of an appropriate framework.

This view is supported by Chi-X's experience negotiating access to ASX's clearing facilities. As a consequence of the commercial realities it faced at the time, Chi-X was for all practical purposes required to enter into a five year term for the 'Trade Acceptance Service' at an aggregate cost of \$1.375 million<sup>4</sup>. A new agreement must be negotiated at the end of that term at which time Chi-X may face the unpleasant task of negotiating with an inflexible monopoly. An illustration of what that negotiation process may entail is provided by the fact that a contractual requirement on the ASX entities to deliver a non-discriminatory service to Chi-X was only eventually agreed after long and protracted negotiations.

In these circumstances, Chi-X strongly supports a regulatory framework dealing with fair and equitable access to the settlement facility.

#### (e) Interoperability

Chi-X is of the view that interoperability between CCPs will deliver a cost effective solution for many of the issues posed by the introduction of competition including the cost of fragmentation. It will assist in facilitating a competitive environment that will help deliver innovation, wider cost efficiencies and an increased ability to reference global benchmarks. Chi-X is of the view that the introduction of interoperable clearing services has the potential to stand as a visionary policy initiative and seminal point in the development of Australian cash equity markets.

### **Lessons from the Introduction of Competition in Trading**

As the first exchange to launch competitive trading in ASX listed securities, it is possible that the experience of Chi-X may provide some assistance when considering the introduction of competition in the clearing of those securities. Two key features of the regulatory processes leading up to the launch of the Chi-X market, from a Chi-X perspective, were (i) the consequences of the time taken to consider the Chi-X application and (ii) the impact of new regulations on Chi-X and its participants and their effect on competition outcomes.

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<sup>3</sup> See for example the comments of ACCC Chair Rod Sims at <http://www.theaustralian.com.au/business/opinion/accc-chairman-blames-third-party-battles-on-declaration-process/story-e6frg9lx-1226197238609>

<sup>4</sup> This is many times in excess of the sum paid for comparable services by other Chi-X entities.



## The Consequence of the Time Taken to Consider the Chi-X application

The time between the Chi-X application for an Australian Market Licence being lodged and that licence finally being granted was the most serious threat Chi-X has faced to its operations surviving in the Australian market. The long term stifling ramifications on competition that arose from the length of time between the application and granting of the licence still have an impact on the dynamics of Australia's financial markets today.

The Chi-X group operates markets in several locations globally and in 2008 decided that Australia would be an appropriate market in which to apply for regulatory approval to operate a market. A draft licence application was lodged in April 2008 and the licence was granted on 4 May 2011. While the reasons for the time between the initial applications and the licence being granted are varied and it is difficult to ascribe a percentage contribution to each, a clear consequence of the delay was enabling the legacy monopoly provider to prepare for competition by taking pre-emptive steps over an extended period of time. Those steps included:

- (i) adopting a fee structure for a competitive environment in some business lines;
- (ii) allocating significant capital expenditure to the development of products to thwart the introduction of a new market operator, including:
  - a. the development of dark pool products, namely Centre Point and VolumeMatch;
  - b. the introduction of PureMatch, a HFT focused trading platform,
  - c. building a new ASX data centre to provide additional co-location facilities to support HFT activity;
  - d. ASX Best;
- (iii) developing and/or contributing to the development of a regulatory environment suitable for ASX products.

The above are in many respects understandable responses from the incumbent monopoly provider to the threat of competition. However, a delay in granting a licence to a new entrant provides a significant advantage and opportunity for a legacy monopoly provider to take additional steps to lock in customers and position itself in such a manner that stifles and impedes the benefits of competition.

Chi-X is of the view that while it is appropriate to take time to consider issues relating to the stability of Australia's financial markets, there is a concern based on our past experience that policy makers may side too much with delivering a delayed outcome at the expense of the benefits of competitive outcomes.

Chi-X believes that a measured method of mitigating the impact of delay is to deliver and adhere to a reasonable timetable, formulated in conjunction with stakeholders, for the delivery of outcomes for licence applicants.

## The Impact of New Regulations and their Effect on Competition Outcomes

The regulation of Australia's cash equities market has been thoroughly overhauled at the same time that Chi-X sought to launch a competitive market. Chi-X commends ASIC for its thorough approach and does not dispute that each of those regulatory changes was necessary. However, Chi-X is of the view that it is appropriate for policy makers to continually assess the impact of proposed regulatory changes upon the workload of participants, the urgency of desired change and to strive for an appropriate regulatory balance in respect of competition that is justified by transparent ex ante cost benefit analyses.

### **The Need for Clarity**

Chi-X acknowledges the expertise of the CFR and notes that the wider stakeholder debate on competition has at times appeared confused and clouded by vested interest arguments. Two topics that seem particularly prone to a lack of clarity are fragmentation and the cost of competition.

#### 'Fragmentation'

As with any debate involving many stakeholders from different backgrounds and perspectives, there is sometimes confusion over terms used in analysing the impact of competition. This is illustrated by the use, in some circumstances by some stakeholders, of the term 'fragmentation' as a negative market phenomenon generated solely by the introduction of competition. The fact is that at the time Chi-X commenced operations the Australian market was already fragmented:

- ASX participants had built internalisation models that facilitated off market trading (there were 15 such venues noted in ASIC's CP 168); and
- ASX built four separate market venues.

The manner in which the term "fragmentation" is used also downplays the very nature of competition which involves the jostling for customers in relation to new products, services and platforms and the innovation that is a driving force behind it. This may well cause fragmentation and then consideration as part of the usual forces of market dynamics. Indeed, competition, and the benefits of innovation are most at risk from highly concentrated, stable markets.

Chi-X is therefore aware that the costs of introducing competition and fragmentation need to be addressed by the CFR, but is also keen to ensure that the analysis in this area includes accurate data on outcomes that include and exclude competition. Importantly, concerns relating to fragmentation resulting from introducing competition between CCP's can readily be addressed through the acceptance of interoperability.

#### The Cost of Competition

Chi-X is concerned that some analysis confuses the cost of competition in the trading of cash equities with the costs of wider regulation. For example, it is important to note that the transfer of

financial market supervision functions to ASIC took place independently of competition. In the words of then Commissioner Tregillis:

*The Government's decision to transfer supervision to ASIC was designed to create a single whole-of-market supervisor, and in doing so, to streamline supervision and enforcement by enabling the complete supervision of trading on domestic licensed financial markets within one regulatory body.<sup>5</sup>*

As such, Chi-X is conscious that in some quarters the cost of this transfer is attributed to competition when it is clearly not so. In the context of introducing competition in clearing, Chi-X is keen to ensure that an ex ante cost benefit analysis accurately apportions the costs and benefits of competition in a way that is transparent. This would assist in ensuring that the debate over competition in clearing is appropriately focused on accurate and relevant data.

### **Key Requirements for the Transition to Competition**

The immediate principle issue before the CFR should not be conceptually difficult. Competition between CCP's delivers benefits for all market users, a monopoly provider does not. Vested interests will argue otherwise and that is a natural, expected part of the debate.

Following consideration of the matters identified above, Chi-X is of the view that the following factors are relevant to provide a regulatory roadmap and associated regulatory certainty for the CFR to take into account when planning for the delivery of competition in the clearing of cash equities in Australia:

- (i) *timely consideration* – ensuring a timely time period is taken to appropriately consider and decide upon an application for a clearing and settlement facility licence received from a new entrant to the Australian market;
- (ii) *transparency* - publishing to all stakeholders a transparent timetable which includes important milestones and provides a proposed date for delivery of competition;
- (iii) *accountability* - the implementation of an appropriate regulatory regime, governing access to ASX Settlement services, which has immediate powers of reporting, review and sanction;
- (iv) *non-discrimination* - ensuring that any aspect of the existing regulatory framework for clearing and settlement, including rules and infrastructure, that favours an

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<sup>5</sup> [http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ASIC-agenda-for-market-integrity.pdf/\\$file/ASIC-agenda-for-market-integrity.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ASIC-agenda-for-market-integrity.pdf/$file/ASIC-agenda-for-market-integrity.pdf). See also the speech of Commissioner Belinda Gibson to the 16<sup>th</sup> ACLA Conference – Recent Changes to Australia's Supervisory Powers, in which it was stated "Our objective was to ensure we provide market supervision to the same standard as ASX, and to look for the efficiencies that would follow from merging the two supervisory functions into one entity" – see [http://asic.gov.au/asic/pdflib.nsf/LookupByFileName/Recent-changes-to-Australias-supervisory-powers.pdf/\\$file/Recent-changes-to-Australias-supervisory-powers.pdf](http://asic.gov.au/asic/pdflib.nsf/LookupByFileName/Recent-changes-to-Australias-supervisory-powers.pdf/$file/Recent-changes-to-Australias-supervisory-powers.pdf)

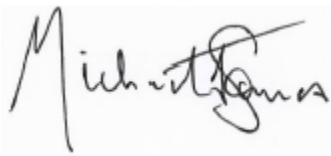
existing provider is not simply carried over into a post competition world but reviewed against a criteria of achieving fair and non-discriminatory competition outcomes;

- (v) *regulatory certainty* - allowing the existing model of participant supervision to continue with ASX clearing participants continuing to be supervised by ASX Clear and any new CCP supervising its participants on the basis approved as part of its licence application.

These factors are reflected in the response to the DP questions listed in **attachment one**.

Please do not hesitate to contact us if you have any queries.

Yours faithfully



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Discussion paper question	Chi-X response
<p><b>Q1. Do you agree that clearing of ASX securities is contestable?</b></p>	<p>Chi-X is of the view that clearing of ASX securities is contestable and notes that competition in clearing has delivered benefits in many jurisdictions.</p> <p>Chi-X is of the view that this contestability extends to the clearing of derivatives and notes that, subject to regulatory considerations, competition in this area may commence relatively soon.</p>
<p><b>Q2. Do you agree that there is no evident demand for competition in the settlement of ASX securities? If so, do you have any views on whether price or non-price issues could emerge in relation to ASX's settlement facility?</b></p>	<p>Chi-X is of the view that there is no demand for competition in the settlement of ASX securities and that this reflects the widely held view that for reasons of efficiency and certainty, settlement of cash equity transactions should be the responsibility of a single entity subject to appropriate constraints.</p> <p>Please refer to our response to Q.11 for further details.</p>
<p><b>Q3. Have the Agencies identified the right issues around fragmentation?</b></p>	<p>Fragmentation of clearing is inevitable if competition is enabled and the right issues concerning fragmentation have been identified. Importantly, we note that the significant benefits to be derived from introducing competition have not been identified, which we assume is for reasons of brevity given that the Agencies have adopted a position of openness to competition.</p> <p>We note that interoperability will negate issues relating to fragmentation.</p>
<p><b>Q4. Do you have views on whether particular product or participation segments of the market for ASX securities would be affected in the event that competition in clearing emerged?</b></p>	<p>A new market operator such as Chi-X does not quote securities based upon issues such as cost; the incremental cost of quoting a security is negligible. Instead the decision concerning whether or not to quote a security is primarily a reflection of the likelihood of attracting sufficient liquidity. This fact is evidenced by Chi-X's Trade Reporting Service where liquidity is not a consideration and the full range of ASX-listed securities is supported. As the market share of a new market</p>

	<p>operator increases so will the likelihood that it will quote those securities that are generally regarded as less liquid. There is no evidence to suggest that this desire to compete in the secondary market will in any way make it more difficult to conduct CCP clearing of transactions in less liquid companies.</p> <p>We also note that the point expressed by the DP concerning a CCP being exposed to a higher percentage of less liquid securities would be negated if interoperability was in place. This would enable competing CCPs to compete on a participant basis, thus removing the risks posed by competing on a security basis.</p>
<p><b>Q5.Are there any other factors related to the effective functioning of the market for ASX securities that should be considered?</b></p>	<p>Chi-X is of the view that the DP rightly focuses upon the risks of introducing competition however, the risks of continuing to develop a market place with a monopoly CCP are not insignificant and should not be overlooked. If a monopoly CCP continued then urgent action must be taken to ensure that prices charged by the monopoly CCP are fair and reasonable, access to the monopoly CCP is provided to all market operators on the same fair and reasonable terms and that measures are put in place to ensure international competitiveness, for example the introduction of internationally adopted risk management measures such as margining.</p>
<p><b>Q6. Do you have views on the stability and effectiveness of interoperability in other jurisdictions? Should interoperability between competing CCPs be encouraged in Australia?</b></p>	<p>Chi-X strongly supports interoperability and is of the view that it should be encouraged through an appropriate regulatory regime that ensures:</p> <ul style="list-style-type: none"> <li>(i) each settlement facility is required to provide a fair, transparent and non-discriminatory service to all CCP's;</li> <li>(ii) structural and governance separation take place within the ASX group to ensure that proper and non-discriminatory standards and transparency as to costs are observed on an ongoing basis.</li> </ul> <p>Chi-X is mindful that the introduction of interoperability might be delayed by a CCP that is reluctant to face the pressures of competition; we would not wish to see such resistance significantly delay the introduction of competition between CCP's. If that were likely then Chi-X would support the introduction of interoperability at a later stage however we note that its early introduction is only</p>

	likely to occur as a result of regulatory pressure and that such pressure should be applied.
<b>Q7. Can you suggest any other responses to the issues raised in relation to market functioning?</b>	Chi-X is of the view that the interoperable codes that have been raised are appropriate.
<b>Q8. Do you consider that there is a risk of a race to the bottom on risk control standards in the event that competition in clearing emerged?</b>	Chi-X is of the view that appropriate regulation and competitive pressures are more than capable of maintaining standards particularly as: <ul style="list-style-type: none"> <li>(i) integrity is essential for a CCP to have commercial success;</li> <li>(ii) it is likely that clearing participants will not support a CCP that does not employ high quality risk management.</li> </ul>
<b>Q9. Are you aware of such a race to the bottom in other jurisdictions in which competition in clearing has emerged? What risk control standards have been impacted and how?</b>	Chi-X is of the view that a key benefit to be derived from competition is that risk management standards will increase as a consequence of normal competitive pressures and therefore higher standards will evolve.
<b>Q10. Do you have views on the risks that the exit of CCPs could pose to financial stability?</b>	There is clearly a concentration risk posed by having a sole CCP and Chi-X is of the view that through the introduction and development of strong competition this risk will progressively be addressed. However at all times it is appropriate that regulators give consideration to the exit (or failure) of a CCP.  We note that the commercial viability of a CCP is heavily dependent upon its reputation, probity and integrity. The disorderly exit of a CCP from a market place would have a significant effect on the operations it conducted elsewhere

	particularly given the international business of many participants.
<b>Q11. Do you have comments on the issues identified around access to ASX Settlement and settlement arrangements for non-ASX CCPs more generally?</b>	<p>Chi-X is of the view that there is substantial and convincing evidence that a monopoly settlement facility operated as a for-profit enterprise without appropriate controls may threaten the delivery of competition in clearing. This risk is heightened where the facility is operated by a group that also operates a legacy CCP competing with new entrants. The risks cover both price and non-price issues.</p> <p>It is incumbent upon a monopoly to fully utilise the resources it has, within any constraints imposed by law, to obtain the best outcome for its shareholders. It is therefore essential that the Agencies work toward ensuring that the constraints imposed by law upon any such monopoly are adequate and at a minimum deal with:</p> <ul style="list-style-type: none"> <li>(i) transparency on the make-up and amount of the costs of settlement services delivered to competing CCP's;</li> <li>(ii) the structure and governance arrangements for the settlement services operated by the monopoly supplier are separated from all other functions by other entities related to the monopoly supplier;</li> <li>(iii) reporting and transparency arrangements ensure ongoing equivalence of treatment of all CCP's using the settlement facility.</li> </ul> <p>Chi-X notes that ASX Settlement is likely to continue to operate as a monopoly provider of settlement services; it is therefore essential that the Agencies take appropriate action to ensure that the proper provision of those services is not influenced by the wider interests of the ASX Group.</p>
<b>Q12. Are there any other factors related to financial stability that should be considered?</b>	The concentration risk posed by a single CCP, including 'too big to fail' concerns, are mitigated by the introduction of competition.
<b>Q13. To what extent do you consider that application of risk-management standards</b>	Chi-X is of the view that the application of these standards together with the introduction of competition is likely to result in an enhancement of cost effective

<p><b>consistent with the CPSS-IOSCO <i>Principles for financial market infrastructures</i> would mitigate the risk of a race to the bottom?</b></p>	<p>service delivery to Australian investors and wider stakeholders in Australia's financial markets. Competition will help to deliver global standards in best practice cost effective risk management and facilitate a more robust outcome.</p>
<p><b>Q14. To what extent do you consider that exit plans and <i>ex ante</i> commitments would mitigate the risk of instability in the event of the exit of a competing CCP?</b></p>	<p>Chi-X is of the view that:</p> <ul style="list-style-type: none"> <li>(i) Any exit plans and/or prior commitment requirements should be subject to a transparent and detailed <i>ex ante</i> cost benefit analysis to ensure that they are proportionate;</li> <li>(ii) Proportionate exit plans and prior commitments mitigate instability but disproportionate measures will stifle innovation, competition and the resulting beneficial outcomes for all stakeholders in Australia's financial markets.</li> </ul>
<p><b>Q15. Do you have views on what <i>ex ante</i> commitments might be reasonable and how these might be imposed without creating barriers to entry?</b></p>	<p>Chi-X is of the view that any <i>ex ante</i> commitments should take into account the relative size and market share of a competing CCP. While Chi-X does not necessarily support the view that an <i>ex ante</i> commitment should only be imposed on systemically important CCPs, Chi-X is conscious that there is an ability to take a gradual response that is proportionate with the development of the market share of a competing CCP and provides the most conducive environment for competition outcomes. It is important that Australia does not price itself out of the global market by imposing unreasonable demands and creating an environment that gives rise to significant uncertainty on the part of overseas-based CCP's.</p>
<p><b>Q16. To what extent do you consider that location requirements would mitigate the risk of diminished regulatory influence and</b></p>	<p>Chi-X is of the view that location requirements may mitigate the risk of diminished regulatory influence and control but that they need to:</p>

<p><b>control in the event that an overseas-based CCP provided clearing services for ASX securities?</b></p>	<p>(i) be commensurate with the importance of the Australian business of an overseas based CCP to the Australian market; and</p> <p>(ii) properly reflect the global business of such a CCP.</p>
<p><b>Q17. Do you have views on what location requirements – and other measures to enhance regulatory control and influence – might be reasonable in the case of clearing ASX securities and how these might be imposed without creating unnecessary impediments to entry?</b></p>	<p>Chi-X is of the view that location requirements should be subject to a reasonable, sound and transparent ex ante cost benefit analysis. It is important that Australia does not impose obligations that will ultimately lead to its economic isolation.</p>
<p><b>Q18. Do you have views on what would constitute appropriate settlement arrangements for non-ASX CCPs?</b></p>	<p>Access to a monopoly provider of settlement services must be via a mandated access regime applicable to all CCP's.</p>
<p><b>Q19. Do you have views on what would constitute a reasonable basis for co-operation with overseas regulators?</b></p>	<p>Chi-X is of the view that a proportionate approach should be taken to co-operation between overseas regulators. This proportionate approach should range between the co-operation standards applied for countries that adopt a systemically important requirement for offshore operators before triggering regulatory co-operation, to the college of regulators approach adopted in European countries where a European presence is required for operation within the European Economic zone.</p>
<p><b>Q20. Can you suggest any other responses</b></p>	<p>No, we believe the issues identified by the Agencies are comprehensive.</p>

<p>to the issues raised in relation to financial stability?</p>	
<p><b>Q21. Do you have views on the effectiveness of the existing policy and legislative framework in addressing access to ASX Settlement?</b></p>	<p>Chi-X is of the view that the inefficiencies and uncertainties of the existing Part IIIA options for regulating access to critical infrastructure have been correctly summarised elsewhere<sup>6</sup>. Chi-X is of the view that unless a stringently regulated specific access scheme is imposed upon ASX Settlement as the monopoly provider of settlement services then it is reasonable to assume that the introduction of competition between CCP's will be frustrated.</p>
<p><b>Q22. Do you have views on whether transitional or longer term regulatory arrangements would be most appropriate in addressing any potential issues that could emerge in relation to competition and access to ASX Settlement?</b></p>	<p>Chi-X is of the view that both transitional and longer term arrangements are required. It is incumbent upon the employees of ASX Group to advance the revenue generation of ASX assets and the economic interests of ASX shareholders<sup>7</sup>. In circumstances where the ASX Group operates a monopoly service in some business lines, there is an implicit incentive for the ASX and its employees to provide less efficient services to competitors of other ASX business lines. Clear regulatory and other legal requirements are required to address those incentives. The requirements need to be imposed on a transitional and long term basis and in a manner that enables immediate review and, if appropriate, sanction.</p>
<p><b>Q23. Can you suggest any other options (regulatory or non-regulatory) to address any</b></p>	<p>Chi-X is of the view that the ACCC is very conversant with the 'monopoly play book' and the need for shareholders in a monopoly to recognise and be</p>

<sup>6</sup> See for example the comments of ACCC Chair Rod Sims at <http://www.theaustralian.com.au/business/opinion/accc-chairman-blames-third-party-battles-on-declaration-process/story-e6frg9lx-1226197238609>

<sup>7</sup> Some ASX group employees may have responsibilities that are not directly revenue generating but are, for example by their focus on the integrity of the ASX product, a direct contributor to the quality and ultimate revenue generation of that product.



<b>potential issues that could emerge in relation to competition and access?</b>	incentivised to ensure executive staff comply with requirements to provide fair and orderly access to key infrastructure.
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