

Treasury
Langton Crescent
Parkes ACT 2600

Via email: FMIConsultation@treasury.gov.au

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Financial market infrastructure regulatory reforms

The Financial Services Council (FSC) is a peak body which develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services. Our Full Members represent Australia's retail and wholesale funds management businesses, and superannuation funds.

We welcome the government's focus on strengthening the regulatory regime to enhance market resilience and protect Australia's financial stability. We do not have concerns about the legislative package. We submit for the government's consideration a further enhancement to help maintain market resilience and provide greater competition by requiring trading participants to be set up with another exchange and trade securities on an alternate exchange.

Market resilience and certainty to trade under different market conditions is a critical feature of robust market design that builds investor trust and confidence. Australia is a large developed market and the only one in APAC which supports exchange competition, having the Australian Securities Exchange (ASX) and Cboe Australia (Cboe). ASX is the primary exchange which has the majority of the market share while CBOE has approximately 20% trading market share. The development of Cboe as a viable competitor to ASX is an important structural diversity mechanism to ensure financial market stability. However, there are currently no rules that mandate trading of securities on both the exchanges in Australia.

As a result, securities primarily listed on one exchange may never trade on the other. This creates potential risk as, in situations of market outage, there is no way for investors to be able to trade if the exchange of primary listing is not operational. Mandating trading of all securities on both exchanges can help to eliminate that risk, as trading and price formation can continue to take place at the alternate exchange. Market participants at both venues would be able to price and trade these securities, in turn further promoting liquidity provision and price discovery, to the benefit of end investors.

Treasury is aware of the background of the market trading outage experienced by the ASX on 16 November 2020 following a major upgrade by ASX of its equity trading platform called the ASX Trade Refresh project (outage). During this outage, the ASX suspended trading for most of that day. Following the ASX recommencing trading following the outage, ASIC facilitated various meetings with market participants to obtain insights into the impacts from the outage. During those discussions ASIC also sought an understanding as to why trading volumes did not reroute to the Cboe's trading platform. Participants informed ASIC that this is because (at the time) various institutional brokers were not set up with Cboe because those brokers did not see this a priority due

to the costs involved.

In ASIC Report 708 on *ASIC's expectations for industry in responding to a market outage*.¹ ASIC recommends executing brokers should be able to switch over to the alternate exchange in the event of market outages as part of ensuring trade continuity and market resilience. In the absence of a subset of securities not available to trade at both exchanges, institutional investors are exposed to the risks of non-execution. Therefore, our recommendation to mandate trading of all securities at both exchanges will allow brokers and end investors to efficiently manage risk.

The FSC recommends that there be a requirement that any new or existing trading participants must be set up with a primary exchange and alternate exchange. Furthermore, the FSC would welcome Treasury supporting the idea of a feasibility study for an automated failover system between ASX and Cboe being designed and implemented, so that in the event either ASX or Cboe was to experience an outage, the trades would reroute to the other exchange. This automated failover system would be under the oversight of RBA. This would provide on-exchange trading continuity thus enhancing the structural integrity of the Australian market.

Sincerely,

Chaneg Torres
Policy Director
Investments & Funds Management

¹ [ASIC, Expectations For Industry In Responding to a Market Outage \(Report 708\), November 2021](#)