

NOTIFICATION OBLIGATIONS

<p>The purpose of this Guidance Note</p>	<ul style="list-style-type: none"> To provide guidance to participants on their notification obligations under the ASX Settlement Operating Rules
<p>The main points it covers</p>	<ul style="list-style-type: none"> General notification obligations under the ASX Settlement Operating Rules Additional notification obligations for general settlement participants Notification of significant breaches Lodging notifications via ASX Online Notifications of securities lending activity
<p>Related materials you should read</p>	<ul style="list-style-type: none"> A list of the notifications that can be submitted to ASX via the participant forms facility on ASX Online and the relevant notification name: <ul style="list-style-type: none"> https://www.asxonline.com/content/dam/asxonline/public/documents/manuals/participant-notifications.pdf Instructions on how to use the participant forms facility on ASX Online: <ul style="list-style-type: none"> https://www.asxonline.com/content/dam/asxonline/public/documents/manuals/participant-forms-guide.pdf Securities lending reporting user notes available online at: <ul style="list-style-type: none"> https://asxonline.com/content/dam/asxonline/public/documents/manuals/asx-online-securities-lending-reporting-user-notes.pdf www.asxonline.com/participants/services/securitylending/usernotes.pdf

History: Guidance Note 8 amended [15/12/2019](#). Previous versions of this Guidance Note were issued in 03/14, 06/15, and 08/16 and 01/19.

Important notice: ASX has published this Guidance Note to assist participants to understand and comply with their obligations under the ASX Settlement Operating Rules. It sets out ASX's interpretation of the ASX Settlement Operating Rules and how ASX is likely to enforce those rules. Nothing in this Guidance Note necessarily binds ASX in the

application of the ASX Settlement Operating Rules in a particular case. In issuing this Guidance Note, ASX is not providing legal advice and participants should obtain their own advice from a qualified professional person in respect of their obligations. ASX may withdraw or replace this Guidance Note at any time without further notice to any person.

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1. Introduction

The purpose of this Guidance Note is to provide guidance to participants on their notification obligations under the ASX Settlement Operating Rules.

2. General notification obligations

Under the ASX Settlement Operating Rules, a participant is required to notify ASX Settlement Pty Limited (ASX) in writing of the following matters:

- **change of name** – any change to its name or the name under which it carries on business as a participant, before the change becomes effective;¹
- **change of address** – any change to any address at which the participant carries on business as a participant, before the change becomes effective;²
- **information about other changes in business** – any other material change in information concerning its business as a participant from that previously provided to ASX, immediately upon the participant determining the change will occur that happening;³
- **change of licence** – there is any change to a licence or other authorisation which authorises the participant to carry on its business as a participant, immediately upon that happening;⁴
- **overseas activity** – the participant intending to locate or relocate any part of its business as a participant⁵ outside Australia, prior to the commencement of the overseas activity;⁶
- **overseas taxes** – if the participant is incorporated outside Australia or conducts any part of its business as a participant outside Australia and that may have tax ramifications for ASX or any other person bound by the ASX Settlement Operating Rules in relation to any transaction or agreement involving the participant, information about those tax ramifications, before the relevant transaction or agreement is entered into;⁷

¹ ASX Settlement Operating Rule 4.6.1(a).

² ASX Settlement Operating Rule 4.6.1(b).

³ ASX Settlement Operating Rule 4.6.1(c).

⁴ ASX Settlement Operating Rule 4.6.1(d).

⁵ Including, without limitation, any means of communicating CHES messages to ASX or any employees.

⁶ ASX Settlement Operating Rule 4.12.1 and ASX Settlement Operating Rules Procedure 4.12.1 paragraph (a).

⁷ ASX Settlement Operating Rule 4.12.2.

- **appointment or cessation of agent for service of process** – where the participant is not incorporated or registered as a foreign company under the Corporations Act 2001 (Cth):⁸
 - the acceptance by an agent of its appointment as the participant’s agent for service of process in Australia as soon as practicable after the acceptance;⁹ and
 - the intended effective date of any agent ceasing for any reason to act as the participant’s agent for service of process in Australia;¹⁰
- **reconciliation issues with an accumulation account** – within 2 business days if:
 - a reconciliation of an accumulation account has not been performed in accordance with the ASX Settlement Operating Rules;
 - a reconciliation of an accumulation account reveals a deficiency of financial products in the account; or
 - the participant is unable to reconcile an accumulation account;¹¹
- **inability to reconcile holding balances** – the participant being unable to reconcile its records of the balance of a holding under its control with a holding balance reported by ASX, within 5 business days of becoming aware of the inability to reconcile its records;¹²
- **payment provider default** – immediately upon any of the following happening:
 - the participant reasonably suspects that its payments provider will or may not authorise a net payment obligation under section 10 of the rules;¹³
 - if its payments provider becomes, or the participant reasonably suspects that its payment provider may become, an externally administered body corporate or an insolvent under administration;¹⁴
- **performance bond default** – the participant takes a step or becomes aware that another person has taken a step that may in any way affect the ability or entitlement of ASX to obtain payment of the relevant amount under the performance bond lodged by the participant, immediately upon that happening;¹⁵
- **regulatory action against the participant or an employee** – the participant or any of its employees is the subject of any regulatory or disciplinary or enforcement action by any market licensee, another clearing and settlement facility, ASIC or any other regulatory authority that relates in any way to its activities as a participant, immediately upon the commencement of the action. Please note, the reference in this rule to action that “may be taken” against a participant or any of its employees means that the notification obligation arises even before the formal commencement or conclusion of enforcement proceedings. For example, a participant should notify ASX if it becomes aware that a matter relating in any way to its activities as a participant of ASX Clear has been referred to the enforcement division of ASIC, an exchange, a market operator, a clearing and settlement facility or any other regulatory body for consideration of enforcement or other action;¹⁶

⁸ Referred to in this Guidance Note as the “Corporations Act”.

⁹ ASX Settlement Operating Rule 4.12.5(b). The agent must be resident in Australia and approved by ASX (ASX Settlement Operating Rules 4.12.5(a) and (d)).

¹⁰ ASX Settlement Operating Rule 4.12.5(c).

¹¹ ASX Settlement Operating Rule 6.3A.4.

¹² ASX Settlement Operating Rule 6.14.2.

¹³ ASX Settlement Operating Rule 12.18.1(b).

¹⁴ ASX Settlement Operating Rules 12.18.1(g) and (h).

¹⁵ ASX Settlement Operating Rule 12.18.1(d).

¹⁶ ASX Settlement Operating Rule 12.18.1(c).

- **non-compliance with participant admission requirements** – the participant ceases to comply with any participant admission requirement in section 4 of the rules that applies to the participant and has not been waived under rule 4.2.3, immediately upon becoming aware of the non-compliance;¹⁷
- **significant rule breach** – the participant becomes aware of having committed a significant breach of the ASX Settlement Operating Rules or Procedures, immediately upon becoming aware of the breach;¹⁸
- **fraud by an employee** – the participant suspects or becomes aware that any employee has engaged in fraudulent conduct, immediately upon that occurring;¹⁹
- **loss of right to carry on business as a participant in an approved market operator or approved clearing facility** – if the participant is also a participant of an approved market operator or approved clearing facility, immediately upon any of the following occurring:
 - the participant ceases to be a participant or entitled to carry on business as a participant of the approved market operator or approved clearing facility;
 - the participant is suspended from all or any of the privileges in relation to being a participant of the approved market operator or approved clearing facility; or
 - the participant is prohibited from transacting any business with or through any participant of the approved market operator or approved clearing facility on such terms and conditions as that approved market operator or approved clearing facility imposes;²⁰
- **external administration** – immediately upon any of the following occurring:
 - if the participant is a body and:
 - it becomes or reasonably suspects that it may become an externally administered body corporate;
 - it takes a step or becomes aware that another person has taken a step that is intended to lead to the body becoming externally administered; or
 - someone takes control of its property for the benefit of its creditors because the body is, or is likely to become, insolvent;²¹ or
 - if the participant is an individual or consists of two or more partners or trustees and:
 - the individual or partner or a trustee becomes or reasonably suspects that it may become an insolvent under administration;
 - the individual or a partner or a trustee takes a step or becomes aware that another person has taken a step that is intended to lead to the individual or the partner or trustee, as the case requires, becoming an insolvent under administration; or
 - someone takes control of the property of that individual, partner or trustee for the benefit of creditors because the individual, partner or trustee is, or is likely to become, insolvent;²²

¹⁷ ASX Settlement Operating Rule 12.18.1(a).

¹⁸ ASX Settlement Operating Rule 12.18.1(j). See also '[4. Significant breaches](#)' '~~4. Significant breaches~~' on page 5 of [this Guidance Note](#).

¹⁹ ASX Settlement Operating Rule 12.18.1(k).

²⁰ ASX Settlement Operating Rule 12.18.1(i).

²¹ ASX Settlement Operating Rule 12.18.1(e).

²² ASX Settlement Operating Rule 12.18.1(f).

- **insolvency** – the participant becomes aware of any event or circumstance which adversely affects, or may adversely affect, its financial position or solvency immediately upon becoming so aware;²³
- **inability to comply with rules** – the participant becomes aware of any event or circumstance which adversely affects, or may adversely affect, its ability to comply with the ASX Settlement Operating Rules or Procedures, immediately upon becoming so aware;²⁴
- **communication issues** – the participant becomes aware of any fact or matter or intends to take any action that will or may affect its capacity to communicate reliably with CHES in accordance with the 'External Internal Specification';²⁵
- **transfers to facilitate settlement** – the participant becomes aware it has breached any of ASX Settlement Operating Rules 6.3B.1 to 6.3B.6, immediately upon becoming so aware;²⁶ and
- **incomplete, inaccurate or misleading information** – the participant becomes aware that information which it or its employees have previously given to ASX was incomplete, inaccurate or misleading, promptly notify of becoming so aware.²⁷

Where a participant is also a participant in another market or clearing and settlement facility operated by ASX or a related body corporate of ASX and the notice being provided relates to both participations, a notice given to ASX or a related body corporate of ASX in accordance with the operating rules of that other market or facility is taken to be given to ASX in accordance with the ASX Settlement Operating Rules.²⁸

3. Additional notification obligations for general settlement participants

Under the ASX Settlement Operating Rules, a general settlement participant is required to notify ASX prior to entering into any settlement agreement with an ASX Clear participant.²⁹

4. Significant breaches

As mentioned above, a participant is required to notify ASX immediately if it becomes aware of having committed a significant breach of the ASX Settlement Operating Rules or Procedures.³⁰ For the purposes of determining whether a breach is “significant”, a participant must have regard to:

- (a) the number or frequency of similar breaches;
- (b) the impact of the breach on the participant’s ability to comply with any other Rule or Procedure or to conduct its business operations;
- (c) the extent to which the breach indicates that a participant’s arrangements to ensure compliance with the Rules and Procedures is inadequate;
- (d) the actual or potential financial loss to clients of the participant, or the participant itself, arising from the breach; and

²³ ASX Settlement Operating Rule 12.18.1(l).

²⁴ ASX Settlement Operating Rule 12.18.1(l). By way of example, this would include notifying ASX if the participant became aware of the likelihood of an external administrator being appointed to the participant or its assets.

²⁵ ASX Settlement Operating Rule 16.1.1(c).

²⁶ ASX Settlement Operating Rule 6.3B.9.

²⁷ ASX Settlement Operating Rule 6.2.2.

²⁸ ASX Settlement Operating Rule Procedure 1.10.1 concluding paragraph.

²⁹ ASX Settlement Operating Rule 4.3.5.

³⁰ See note 18 above and the accompanying text.

(e) any other matters specified by ASX from time to time.³¹

For these purposes, it is irrelevant that the breach may have been caused by a third party (such as a payment provider).

A participant is required to make an objective assessment of the significance of each and every breach (or a series of related breaches) including frequency and number of minor breaches (as these could be determined to be systemic in nature) in terms of determining whether it requires notification to ASX under these requirements. In making this determination, participants may find the guidance provided by ASIC in Regulatory Guide 78 *Breach reporting by AFS licensees* on the corresponding obligation to notify ASIC of significant breaches of various financial services laws³² helpful.

For the avoidance of doubt, a one-off or infrequent breach may still be significant if it meets some or all of the criteria in (b) – (e) above.

5. Lodging notifications via ASX Online

All of the above notifications can be made online via the participant forms facility on ASX Online. ASX Online is a secure extranet site provided by ASX to facilitate (among other things) the electronic lodgement of compliance related notifications by participants to ASX Participants Compliance.

The notification functionality in the participant forms facility on ASX Online covers the ASX and ASX 24 markets and the ASX Clear, ASX Settlement and ASX Clear (Futures) clearing and settlement facilities. It enables participants of more than one market or facility to file a single notification across multiple rulebooks.³³

A list of the notifications that can be submitted to ASX via the participant forms facility on ASX Online and the relevant notification name is available at:

<https://www.asxonline.com/content/dam/asxonline/public/documents/manuals/participant-notifications.pdf>

Instructions on how to use the participant forms facility on ASX Online are also available online at:

<https://www.asxonline.com/content/dam/asxonline/public/documents/manuals/participant-forms-guide.pdf>

6. Notifications of securities lending activity

The reports of securities lending activity required under ASX Settlement Operating Rule 6.8A.5³⁴ are lodged via a separate area of [ASX Online](#), ~~rather than ACM~~.

The user guide on how to report securities lending activity is available at:

<https://asxonline.com/content/dam/asxonline/public/documents/manuals/asx-online-securities-lending-reporting-user-notes.pdf>~~www.asxonline.com/participants/services/securitylending/usernotes.pdf~~

7. Business Continuity Plan (BCP) related notifications

A participant must notify ASX³⁵ of:

- any disruption that causes the participant to engage its BCP for its ASX Settlement operations, promptly after it becomes aware of the disruption; and

³¹ ASX Settlement Operating Rules 12.18.3.

³² Section 912D of the Corporations Act.

³³ The participant forms facility of ASX Online can also be used by an issuer to provide ASX with the annual report of the audit of its registry functions required under ASX Settlement Operating Rule 5.23.1(c).

³⁴ In accordance with the timings set out in Procedure 6.8A.5.

³⁵ ASX Settlement Guidance Note 10, Section 4.15.

- any significant outage impacting its ASX Settlement operations, as soon as it becomes apparent that there is or is likely to be a significant outage and regardless of whether it has engaged its BCP.

The above notifications should be made to the relevant departments within ASX either via phone call or email.³⁶

All participants must also notify ASX of the following matters in writing³⁷:

- immediately of any significant breach of, or non-compliance with, the disaster recovery and business continuity requirements in the ASX Settlement Operating Rules or Procedures (as interpreted in accordance with ASX Settlement Guidance Note 10),³⁸ using the 'Self Reporting including Significant Breach' form; and
- as soon as practicable after it has become aware of any fact or matter or intends to take any action that will or may affect its capacity to communicate reliably with CHESSE, including (without limitation) any change to its interface with CHESSE³⁹ using the 'Capacity to Communicate with ASX' form.

Participants must notify ASX by email to review.team@asx.com.au within 10 business days of the appointment and any subsequent departure of their nominated business continuity officer and any other primary business continuity contact.⁴⁰

³⁶ The relevant ASX department may change depending on the nature of the disruption or outage. Participants should maintain an up to date list of key ASX contacts for this purpose.

³⁷ ASX's prescribed method for these notifications is by ASX Online.

³⁸ ASX Settlement Operating Rule 12.18.1(j).

³⁹ ASX Settlement Operating Rule 16.1.1(c).

⁴⁰ ASX Settlement Guidance Note 10, Section 4.1 and Section 4.15.