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Financial Services  
Australian Law Reform Commission  
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## **ASX SUBMISSION TO THE REVIEW OF THE LEGISLATIVE FRAMEWORK FOR CORPORATIONS AND FINANCIAL SERVICES REGULATION – INTERIM REPORT B**

ASX welcomes the opportunity to make a submission to the Australian Law Reform Commission's (ALRC's) Review of the Legislative Framework for Corporations and Financial Services Regulation Interim Report B (the **Report**). ASX supports the Review and its overarching aim of achieving an adaptive, efficient and navigable legislative framework for the corporations law. Improving the law to achieve meaningful compliance would ultimately benefit all participants in financial markets.

ASX does not intend to respond to each of the proposals in the Report in detail but broadly supports the concept of restructuring the *Corporations Act 2001 (Cth)* (Corporations Act) in favour of a more coherent and accessible regulatory regime. We note that such a task is a significant undertaking, and if agreed to by the Government, ASX is prepared to contribute to any consultations on draft legislation as appropriate.

### **Background - ASX's interaction with the current legislative framework**

As a licensed operator of markets and clearing and settlement facilities in Australia, ASX has various regulatory obligations under the Corporations Act. As a result of the delegation of legislative power to ASIC in a number of areas under the Corporations Act, ASX is also subject to a number of legislative instruments made by ASIC, including the Market Integrity Rules which contain key obligations for ASX as a market operator.

### **ASX supports safeguards on the use of delegated legislative power**

ASX agrees that the delegation of legislative power is a practical reality. At the same time, ASX supports the existence of suitable safeguards for both the delegation and exercise of such powers in order to ensure that such power is not inappropriately delegated to the Executive in conflict with the doctrine of the separation of powers.

Given the desire for such safeguards, we are encouraged to see such a detailed consideration of appropriate checks and balances on delegating legislative power in the Report. This work is a particularly useful resource, as we are not aware of a consolidated set of guiding principles of the use of delegated legislative power. To fill this gap, ASX supports the creation of guidance for the use of delegated legislative power in the context of the corporations and financial law.

ASX considers consultation a key safeguard on the exercise of delegated legislative power. Consultation ensures that those affected by the exercise of delegated legislative power have access to procedural fairness, and is particularly important when the exercise of power imposes new or heightened obligations. Consultation should be undertaken in a way that allows adequate time for all affected parties to consider and respond in a meaningful manner

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As such, ASX supports **Proposal B9** to build into the Corporations Act a consultation mechanism beyond the generally applicable *Legislation Act 2003 (Cth)* requirements. We also would welcome the creation of a 'Rules Advisory Committee' with an appropriate level of technical expertise and industry representation.

We would welcome the opportunity to discuss the matters raised in this submission in more detail. If you have any queries on these matters, please contact Sally Palmer.

Yours faithfully

[Redacted Signature]

Sally Palmer  
Deputy General Counsel

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