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Dear FMI Consultation Team

### **FMI Standards Consultation Package – Exposure Drafts**

ASX Clear (Futures) Pty Limited (**ASXCLF**) welcomes the opportunity to comment on the New Zealand FMI Standards (**FMI Standards**) consultation package published on 23 September 2022 which includes the exposure drafts of the FMI Standards, accompanying guidance, and a draft equivalence framework for overseas FMIs (**the Consultation**).

ASXCLF is a wholly owned subsidiary of the ASX Group. It provides central counterparty (**CCP**) clearing services in Australia for NZD and AUD interest rate and commodity futures quoted and traded on the ASX 24 platform and eligible AUD and NZD OTC Interest Rate Derivatives. Australia's four major trading banks are active traders in these products and are Clearing Participants in ASXCLF's OTC swap clearing service. ASXCLF collects margin from Clearing Participants for NZD futures products in New Zealand.

ASXCLF is designated as a 'settlement system' under Chapter 5C of the Reserve Bank of New Zealand Act 1989 (NZ). ASXCLF expects to be designated as a CCP under the Financial Markets Infrastructures Act 2021 (NZ) and intends to seek recognition as an 'overseas-equivalent FMI'.

ASXCLF supports the proposals set out in the Consultation as they apply to designated overseas-equivalent FMIs and sets out its more detailed comments below.

#### **1. Timing of implementation of the FMI Standards**

ASXCLF considers that the proposed commencement date of 1 August 2023 for the FMI Standards may be too soon given the significant amount of work that the New Zealand regulators need to complete prior to commencement, including the finalisation of the FMI Standards and the assessment of entities seeking recognition as 'overseas-equivalent FMIs'. For this reason, ASXCLF submits that the New Zealand regulators consider delaying implementation of the FMI Standards until Q4 2023.

#### **2. Overseas Equivalence Framework for FMIs**

ASXCLF supports the proposed overseas-equivalence framework set out in the exposure draft as a means of minimising unnecessary regulatory duplication. ASXCLF considers that the assessment criteria to establish overseas equivalence are both reasonable and comprehensive. The proposed framework is competitively neutral and by requiring the New Zealand and home jurisdiction of the overseas FMI to be broadly similar at all times avoids the risk of regulatory divergence.

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### 3. FMI Standard 23B (Reporting)

ASXCLF appreciates that it will be necessary for overseas-equivalent FMIs to report to NZ regulators in accordance with FMI Standard 23B. ASXCLF has commenced work to ensure that these reporting obligations are included in our processes ahead of the commencement of the FMI Standards.

We note that the FMIs Draft Guidance Note: Overseas FMIs states (at para 26) that incident reporting is permitted via the home country regulator, however, FMI Standard 23B (Reporting) itself only refers to an international regulatory or supervisory college. The Guidance is silent on this point. We assume that this is an oversight in FMI Standard 23B.

Should you wish to discuss any of the points raised in this submission, please do not hesitate to contact us.

Yours sincerely



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