



25 August 2023

RE: The Parliamentary Joint Committee on Corporations and Financial Services Submission

Thank you for the invitation to further contribute to the PJC process.

In regard to CBOE's submission 12, Finclear is in broad agreement with the recommendations made which should promote further competition via regulatory reforms, standardised international messaging capabilities and agreed operational and interoperability standards.

In regard to QoN 7, FinClear believes the co-regulatory model is sound and functional. However, regulators could be more responsive and effective in promoting and supporting competition, particularly via alternate operational and technology models that can demonstrate enhanced functionality to deliver innovation and efficiencies to the Australian financial system.

In particular, when asked to consider the application of existing regulation to new innovative solutions, the regulators should be encouraged to adopt a proportionate approach to the proposed solution. The risk appetite of the regulators tends to lead to any new entrant being benchmarked against well-established providers and, in ASX's case, a dominant monopoly provider. That can result in an overly conservative position being adopted, and creates a significant barrier to entry for new solutions. It leads to regulatory capture or, put another way, regulators adopting a pro-incumbent approach, rather than one which actively promotes competition in a safe and graduated manner. We strongly believe that it is important that the regulators be prepared to promote and nurture competition whilst it is at a scale that does not put the broad market at risk but allows competition to 'grow' into current regulatory frameworks. This proportionate regulatory approach is being pursued in a number of international markets to enable responsible competition in order to leverage new technologies which can deliver innovations in services while capturing efficiencies and/or reducing risk.

There already exist elements in the regulatory framework for financial market infrastructure which enable a scaled or graduated approach to regulation. For example, ASIC recognises through its two tiers of financial markets that certain markets may be subject to less supervisory oversight and scrutiny of ASIC. There is also a monetary threshold for the application of the RBA's financial stability standards, albeit set at a level which we consider to be too low. The framework is therefore already there for the regulators to take a proportionate approach to support emerging competition, and it is for the regulators to exercise their powers and discretion on the application of specific elements of regulation to potential competitors or emerging technologies. The regulators should be encouraged and supported to act in a manner which promotes innovation and efficiencies as part of their policy outcomes and objectives.

David Ferrall

Yours sincerely

David Ferrall

Finclear Founder, CEO and Managing Director

FinClear Holdings Ltd

Sydney | Level 8, 118 Mount Street North Sydney NSW 2060 | +61 2 8039 6000

Melbourne | Level 5, 380 Collins Street Melbourne VIC 3000 | +61 3 9081 3480

Perth | Level 8, 5 Mill Street Perth WA 6000 | +61 8 9674 9999

finclear.com.au ABN | 63 607 164 714