## **TERMS OF REFERENCE**

On 5 December 2000 the Senate referred to the Senate Economics References Committee the matter of the framework for the market supervision of Australia's stock exchanges for inquiry and report by 30 April 2001, with particular reference to:

The framework for the market supervision of Australia's stock exchanges, with particular reference to:

- (a) the advantages and disadvantages (if any) of the current framework;
- (b) the implications (if any) of the demutualisation and listing of an exchange and any proposed alliance between Australian exchanges and other exchanges;
- (c) other frameworks or structures for market supervision, including frameworks or structures of, or examined by, overseas exchanges; and
- (d) whether trade practices law is deficient in ensuring a competitive stock exchange market.

The Committee sought and received from the Senate an extension to the reporting date of 23 August 2001.

## TABLE OF CONTENTS

The Committee	iii
Terms of Reference	v
Abbreviations	xi
Preface	xiii
Executive Summary	XV
Chapter 1	
The framework for the market supervision of Australia's stock exchanges	1
Introduction	1
Australia's stock exchanges	2
Demutualisation and listing	2
The co-regulatory model of market supervision	3
Corporations Act	3
ASX rules and practices	4
SEATS	5
CHESS Financial Services Reform Act 2001	5 6
T manetar Services Reform 7 Ref 2001	0
Chapter 2	
Advantages of the Current Framework	9
Introduction	9
Advantages of the current framework	9
IOSCO view	12
Chapter 3	
Disadvantages and Shortcomings	13
Introduction	13
Shortcomings identified by the ASX	14
Transparency issues	16
Potential conflict between supervisory and commercial objectives	19
Availability and commercialisation of information ASX response	19 21

Standards of listed companies	23
Potential supervisory conflicts of interest	24
Addressing the conflicts of interest issue - ASX Supervisory Review	27
Chapter 4	
ASX Supervisory Review Pty Ltd	29
Role and functions of ASXSR	29
Adequacy of the ASXSR initiative	31
The supervisory structure in the future	34
Conclusions on ASXSR	36
Chapter 5	
Demutualisation, Listing and Alliances	39
Introduction	39
Why form alliances?	40
Obstacles to alliances	42
Potential pitfalls	46
Ownership limits	47
Conclusions	49
Chapter 6	
Other Frameworks for Market Supervision	
Introduction	51
Chapter 7	
Effectiveness of Trade Practices Law	53
How does trade practices law apply to ASX?	53
Exceptions and authorisations	53
Effects on competition	55
Global competition issues	57
Cross subsidisation and the TPA	58
Conclusions	58
Appendix 1	
Submissions Received	61

Appendix 2	
Public Hearings and Witnesses	63
Appendix 3	
Alternative models	65
Appendix 4	
Information supplied to the Committee by the ASX	79