

# Guidance Note: Access to CHES Primary Market Facility (PMF) for SIM VSE Issuers

## References

Chapter 7, SIM VSE Business Rules

## Instructions

This guidance note outlines how SIM VSE will administer the access by SIM VSE listed or intending to list Issuers to the CHES Primary Market Facility for the purposes of Delivery versus Payment (DvP) batch settlement of securities.

## Circumstances of utilising DvP Batch Settlement of Placements or Initial Public Offerings.

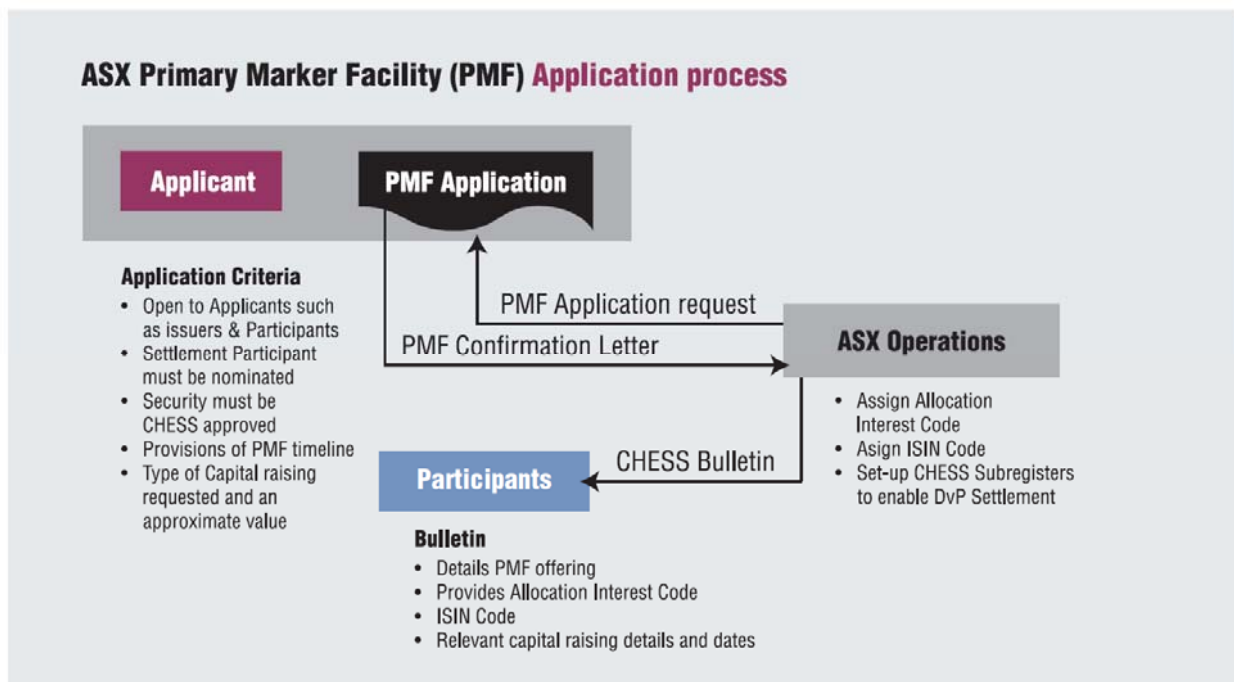
The primary market facility is an optional service available to Issuers. It allows them to use CHES DvP to settle allocation interests in the following types of primary market offers:

- firm allocations;
- institutional book builds; and
- placements.

An Issuer may request that only certain components of a primary offer be settled in CHES DvP. The inclusion of a firm allocation or an institutional book build does not preclude another component of the offer from also being settled by CHES DvP.

Primary market facility transactions are not covered by the National Guarantee Fund or the SIMVSE Compensation arrangements. Issuer's are required to demonstrate how they intend to manage the associated risk of using CHES DvP settlement.

## Procedures for applying to use the PMF



An SIM VSE-listed Issuer (Applicant) that wishes to apply to use the PMF for a capital raising should follow the procedures set out below:

### 1. Contact SIM VSE Operations

The prospective Applicant contacts SIM VSE with regard to their making a potential PMF Application to discuss any issues or guidance that SIM VSE has with the process and application. SIM VSE provides approval to contact ASX Settlement. This is especially important for first time applicants.

*Note: An Applicant may be an Issuer, Issuer's Agent, Registry or an ASX Participant.*

### 2. Contact ASX Settlement

The prospective Applicant contacts ASX Settlement with regard to PMF Application.

### 3. Lodge Application

Applicant completes a PMF Application and lodges both with ASX Settlement and SIM VSE.

It is suggested that the Applicant consult with ASX's Corporate Actions & Depository staff (contact details are at the end of this letter) particularly for first time applicants. This is particularly important for free form questions in Parts B & C where the extent of details required may not be fully understood. For example Part B, Question 1 requires that applicants provide detail outlining the:

- a. Type of capital raising
- b. Value of capital raising
- c. Proposed cut-off date for PMF transactions
- d. Proposed security transformation date

*Refer to Appendix 1 for the PMF Application Form and Appendix 2 for the PMF Application Guidance*

### 4. Deed Poll Required

Applicant executes and submits a Deed Poll to ASX Settlement. This deed poll confirms that the Applicant Issuer is bound by the ASX Settlement Operating Rules.

*Refer to Appendix 3*

### 5. Assistance

The Corporate Actions & Depository team within ASX Clearing & Settlement Operations, will provide ongoing assistance as part of the lodgement process as well as during the DvP settlement timeline. SIM VSE Operations should be informed by the Issuer of any issues arising from the application process.

### 6. PMF Application approval

The Corporate Actions & Depository team notifies the Applicant via a letter. Assuming acceptance, this letter will confirm the dates and PMF fees relating to the capital raising. The Issuer must forward a copy of this approval letter to SIM VSE.

### 7. Registration for processing

ASX Operations creates the appropriate structures to facilitate DvP transaction processing of the PMF offering:

- a. Set-up allocation interest code and ISIN for the PMF capital raising;
- b. Set-up CHESS subregisters
- c. Assign registrar to subregister

### 8. SIM VSE participant bulletin

An ASX Participant Bulletin is disseminated detailing the PMF offering. A SIM VSE Participant Bulletin is disseminated detailing the PMF offering

Refer to Appendix 4 for a sample

## 9. Transactions

DvP transaction processing commences as per the PMF offering timetable.

## 10. Settlement Completion

The registrar transforms the allocation interests (PMF securities) into the Issuer's new securities for each holding and reconciles the issued capital.

### Fees associated with the PMF

Issuers will incur fees for this service. All fees are invoiced direct to the Issuer by ASX. Fees are subject to change from time to time by ASX Settlement and are published in the guide "ASX Schedule of Fees: Clearing and Settlement" available from the ASX Settlement website at:

[http://www.asx.com.au/settlement/asx\\_settlement.htm](http://www.asx.com.au/settlement/asx_settlement.htm)

ASX Settlement Current advertised fees as at May 2011 are:

Issue Size	Fee
From Nil to \$50million	Minimum Fee \$5,000
From \$50m to \$250m	Ad valorem fee of 0.01% (1 basis point)
Any amount greater than \$250m	Capped fee \$25,000

#### Notes:

1. *These fees are subject to change by ASX Settlement.*
2. *The PMF processing fee is usually charged to the Issuer, including the DvP Settlement messages relating to the PMF capital raising. On occasion, the PMF processing fee may be billed to another entity, for example the Applicant based on instructions received by the ASX Corporate Actions & Depository team from a duly authorised person.*
3. **SIMVSE have waived any fees associated with this service.**

### Copy of Applications and Correspondence to be given to SIM VSE

The Issuer undertakes to copy SIM VSE on all correspondence with ASX Settlement.

### SIM VSE Weekly Diary and Participant Bulletins

As part of its weekly service to Participants SIM VSE will announce forthcoming DvP settlements using the PMF in the Weekly Diary.

### List of Appendices

The attached appendices as noted within the procedures above are listed below for your reference:

- a. Appendix 1: PMF Application Form;
- b. Appendix 2: PMF Application Guidance;
- c. Appendix 3: Form of Deed Poll;
- d. Appendix 4: Sample PMF Confirmation Letter;
- e. Appendix 5: Sample SIMVSE Participant Bulletin; and

## References

For further information please refer to the following:

- SIM VSE Business Rules Chapter 7.
- ASX Website: [http://www.asx.com.au/settlement/asx\\_settlement.htm](http://www.asx.com.au/settlement/asx_settlement.htm)

## Key Contact Details

### **Key Contact for PMF Applicants at ASX**

The Corporate Actions & Depository team within ASX Clearing & Settlement Operations is the area that will work with the Applicant throughout the process. Contacts are:

Steven Ball – Team Leader, 02 9227 0820

Luke Griffiths - Senior Officer, 02 9227 0287

Lisa Banh – Officer, 02 9227 0838

### **Key Contact for PMF Applicants at SIMVSE**

Scott Evans – General Manager SIM VSE, 02 4921 2400

Jane Pollard – Trading and Settlement Manager, SIM VSE, 02 4921 2400

**ANNEXURE 1: PMF APPLICATION FORM**

**APPLICATION FOR THE ADMISSION  
OF A CLASS OF BATCH INSTRUCTIONS  
IN DvP BATCH SETTLEMENT**

<p><b>To:</b> SIM Venture Securities Exchange Limited</p>	<p>Email: trading@simvse.com.au</p>
<p><b>And:</b> ASX Settlement Pty Limited Level 5, 20 Bridge Street SYDNEY NSW 2000</p>	<p>Fax: (02) 9227 0264 Tel: (02) 9227 0820</p>

**PART A – Applicants Details**

Name of Entity	
Business Name (if Applicable)	
Australian Company Number (if applicable)	
Australian Registered Business Number (if Applicable)	
Registered Business Address:	
Mailing Address:	
Facsimile Number	
Contact Name	
Contact Telephone Number	
SIMVSE Security Code	

*Part B continued on Next Page.*



**PART B - The Class of Batch Instructions to be Admitted to DvP Batch Settlement**

<p>1. Please provide a description of the class or classes of Batch Instructions to be included in DvP Batch Settlement (including details of counterparties, etc.).</p>	
<p>2. Are the Participants that will be parties to the class or classes of Batch Instructions aware that there is no National Guarantee Fund (“NGF”) coverage for the Batch Instructions?</p>	Yes / No
<p>3. It is a condition of admission to DvP Batch Settlement that if the Batch Instructions do not receive the benefit of NGF coverage, that parties to the Batch Instructions are aware of this fact. Accordingly, if you answered ‘no’ to Question #2 above, please explain how it is proposed to advise those parties that the Batch Instructions will not receive the benefit of NGF coverage.</p>	Yes / No
<p>4. Please describe the measures, which you have put in place to reduce the risk of default by the counterparties to the Batch Instruction.</p>	
<p>5. If the Batch Instructions, the subject of this application, are not “one off” (e.g., IPO related instructions), then ASIC should be advised of the details of the Batch Instructions to be included in DvP Batch Settlement. This is necessary as ASIC may form an opinion about whether the Batch Instructions should be the subject of an investor protection regime. Accordingly, have you advised ASIC of details of the Batch Instructions to be included in DvP Batch Settlement?</p> <p>Does ASIC require that the Batch Instructions be the subject of some kind of investor protection regime?</p> <p>Please provide a copy of all correspondence with ASIC, which supports your answer to Question #5 above.</p>	Yes / No
<p>6. If ASIC does require the Batch Instructions to be the subject of an investor protection regime, please attach evidence that the proposed investor protection regime is acceptable to ASIC.</p>	Yes / No

*Part C continued on next page.*

**PART C – General Settlement Participant**

- |   |          |
|---|----------|
| 7. Does the inclusion of the Batch Instructions in DvP Batch Settlement mean that the Entity needs to be either a General Settlement Participant or communicate details of the Batch Instructions to be included in DvP Batch Settlement? | Yes / No |
| 8. If the Entity needs to be a General Settlement Participant:  |          |
| (a) is the Entity a General Settlement Participant ; or   | Yes / No |
| (b) attach your application to be admitted as a General Settlement Participant.   |          |
| 9. If the Entity does not need to be a General Settlement Participant but is required to communicate details of the Batch Instructions, please provide details of:  |          |
| (a) how it is proposed this communication will be effected; and   |          |
| (b) through whom the communication will be made (e.g., the particular Participant).   |          |
| 10. What is the proposed date of commencement for the Batch Instructions to settle in DvP Batch Settlement?   |          |

.....

Name	Signature
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.....

Title	Date
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**PRIVACY COLLECTION STATEMENT:** As part of this application, ASX Settlement requires you to submit personal information about your employees, principles, agents and service providers. This information is required to enable ASX Settlement to assess whether the applicant will meet the obligations required pursuant to ASX Settlement Operating Rules for admission of class or classes of Batch Instructions in DvP Batch Settlement. Failure to provide this information in whole or in part may mean that ASX Settlement is unable to assess whether the applicant will satisfy the obligations for use of DvP Batch Settlement pursuant to the ASX Settlement Operating Rules.

ASX Settlement does not use or disclose this information for other purposes without the individual’s consent or unless permitted to do so under the *Privacy Act 1988* (Cth).

This information may be disclosed to the National Adjudicatory Tribunal, ASX, the ASX Appeals Tribunal, or the Australian Securities and Investments Commission in the event that action is taken against you pursuant to the *Corporations Act 2001* (Cth) or the ASX Settlement Operating Rules.

Enquiries concerning access to personal information can be directed to the ASX Chief Privacy Officer at PO Box H224, Australia Square, NSW 1215.

## ANNEXURE 2: PMF APPLICATION GUIDANCE



ASX Settlement Pty Limited  
ABN 49 008 504 532  
Level 4  
20 Bridge Street  
Sydney NSW 2000

P.O. Box H227  
Australia Square  
Sydney  
NSW 1215

Telephone 61 2 9227 0000  
Facsimile 61 2 9227 0265  
Internet <http://www.asx.com.au>

### **Guide to Completing the Admission of a Class of Batch Instructions in DvP Batch Settlement Application Form**

#### **1. Introduction**

In accordance with ASX Settlement Operating Rule 10.4.1, ASX Settlement Pty Limited ("ASX Settlement"), has the right to determine if new classes of Batch instructions are eligible for DvP Batch Settlement.

In determining whether a class of Batch Instructions is eligible, ASX Settlement must have regard to the following:

- a) that the applicant is able to communicate reliably with CHES (if this is necessary);
- b) the ability of ASX Settlement to distinguish these additional Batch Instructions from Batch Instructions which receive coverage from the National Guarantee Fund ("NGF");
- c) evidence that the inclusion of the additional Batch Instructions will not adversely affect NGF coverage;
- d) evidence that the Participants who are parties to the additional Batch Instructions have advised clients who wish to have these Batch Instructions settled in DvP Batch Settlement, that there is no NGF coverage;

that if the applicant needs to be a General Settlement Participant it is a General Settlement Participant, or appoints a General Settlement Participant to act on its behalf; and

- e) evidence that ASIC has been told of the application and evidence that:
  - it does not require an investor protection regime in respect of the additional Batch Instructions; or
  - if it does require an investor protection regime, that the investor protection regime proposed by the applicant is acceptable to ASIC.

#### **2. What details ASX Settlement Expects to Receive in the Application Form**

##### **PART A – Applicant's Details**

**Name of the Entity:** In the case of an initial public offering ("IPO"), a decision will need to be made as to who is the appropriate entity to fill out the application. For example, it may be the Issuer who wishes to use DvP Batch Settlement, or it may be the underwriter. The appropriate entity to complete the form is the entity that actually wishes to use DvP Batch Settlement.



## **PART B – The Class of Batch Instructions to be Admitted to DVP Batch Settlement**

Point #1: The description of the class of Batch Instructions to be included in DvP Batch Settlement should include:

- a) details of the counterparties to the Batch Instructions;
- b) whether the parties to the Batch Instructions are all presently Participants or will be required to become Participants in the future; and
- c) The source of the Batch Instructions (e.g., the settlement of the deliverable share futures contracts).

Point #2: In the past when ASIC originally considered if additional instructions should be included in daily settlement, ASIC raised concern that sufficient notification was provided to indicate that those additional instructions would be excluded from NGF coverage. Specifically, they required that parties to those additional instructions (and their clients) did not automatically assume, that because the instruction was included in settlement, it received the protection of NGF. ASIC determined that it was therefore necessary for parties to a non-NGF instruction for settlement understood that if there was a default the nondefaulting party would not be able to look to NGF for completion of the instruction.

Points #3 & #4: These points relate to ensuring that the integrity of CHES is not compromised as a result of the inclusion of the additional Batch Instructions in DvP Batch Settlement. For example, a Participant with a payment obligation arising out of additional Batch Instruction may not have made arrangements with its bank to ensure that it could meet that increased payment obligation. As a result, the Participant may default on its payment obligations not only in relation to the "additional" Batch Instructions but also in relation to other Batch Instructions. Therefore, it is important that the applicant be able to demonstrate that default is unlikely.

Points #5 & #6: Again in the original discussions with ASIC, they also wanted to ensure that from an investor protection point of view, they had some involvement in vetting any application for inclusion of additional instructions in settlement. In particular, ASIC wished to ensure that there was an acceptable investor protection regime in place, if they felt that such a regime was required.

## **PART C – General Settlement Participant**

Part C requires details of how it is proposed that the additional Batch Instructions will settle in DvP Batch Settlement. There are two possibilities:

- a) that the applicant entity is a General Settlement Participant that provides details of the additional Batch Instructions to be settled in DvP Batch Settlement to the various counterparties; or
- b) the applicant communicates details of the additional Batch Instructions either to ASX Settlement, or to the parties to the additional Batch Instructions.

In relation to Point #b above, the communication could be in hard copy or in electronic format. Details should be included.

These questions will assist ASX Settlement in identifying what risks (if any) are associated with these additional Batch Instructions.

### ANNEXURE 3: PMF FORM OF DEED POLL FOR ISSUERS

Application to process an Allocation Component of an Offer of Approved Financial Products as a class of transactions in DvP Settlement  
Deed Poll

Date:

This Deed Poll is made as a deed poll by:  
Name:  
ABN:  
Registered Office:  
("Applicant")

In favour of: ASX Settlement Pty Limited ("ASX Settlement")

- Background :
1. The Applicant has made available forms of application for an Offer of Financial Products;
  2. The Approved Listing Market Operator has given the Applicant approval for quotation of that class of Financial Products;
  3. The Applicant wishes to apply to/has obtained approval by (delete as appropriate) ASX Settlement to act as Issuer in relation to that class of Financial Products and to have the class of Financial Products approved under the ASX Settlement operating rules (as "Approved Financial Products");
  4. The Applicant wishes to apply to ASX Settlement to process an Allocation Component of the Offer of Financial Products as a class of transactions in DvP Settlement;
  5. The Applicant makes this Deed Poll in connection with its application.

This Deed Poll witnesses as follows:

Unless defined in this Deed Poll, capitalized terms have the meaning given to them in the operating rules of ASX Settlement Pty Limited.

The Applicant;

- (a) represents and warrants to ASX Settlement that the information the Applicant has provided or will provide to ASX Settlement in connection with its application including, without limitation, information in its application form and any annexures to its application form, is true and correct;
- (b) acknowledges that ASX Settlement will rely on the information provided in considering its application and acknowledges that any willful omission or misstatement on a material point in or in connection with its application may lead to rejection of the application or, if the application is approved, subsequent revocation of approval of the application and/or cessation of the provision of services to the Applicant;
- (c) undertakes and agrees to be bound by the operating rules of ASX Settlement (as at the date hereof and as amended from time to time) and to observe and perform the obligations, conditions and other requirements that apply to an Issuer under those operating rules including, without limitation, the rules relating to the processing of Allocation Components of an Offer of Approved Financial Products and the processing of Allocation Interests in DvP Settlement.

EXECUTED AS A DEED POLL by;

In accordance with section 127(1) of the Corporations Act 2001 (Cth)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/company secretary

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Name (print)

## ANNEXURE 4: PMF SAMPLE PARTICIPANT BULLETIN

SIMVSE Participant Bulletin

XXXX Limited – DvP Settlement of Conditional Placement

The information below is to provide Participants with further information on the DvP Settlement service extended by the ASX to support the conditional placement by XXXX Limited, who is listed on the SIMVSE market and includes:

- 1 the proposed timetable of events;
- 2 contact details; and
- 3 other related matter.

ISIN	AU000000XXX0
1 August 2011	Deadline for all parties to transmit Dual Entry Settlement Instructions to effect CHESS DvP Settlement between the two parties.
4 August 2011	Settlement Date
8 August 2011	XXXX holdings to be transformed to XXXX by (insert share registry name)
Settlement Agent	Settlement participant    Participant PID
Contact	Name of Contact
Phone	XX XXXX XXXX
Fax	XX XXXX XXXX
Email	Email address