

# Chapter 7

## Changes in capital and new issues

### Table of contents

The main headings in this chapter	Rules
New issues	7.1 - 7.9
No interference etc with issue of +securities	7.10
Rules that apply to all +pro rata issues	7.11
Rules that apply to all entitlements issues	7.12 - 7.15
Rules that apply to issues of options	7.16
Rules that apply to any issue in a different entity	7.17
Reorganisations of capital	7.18 - 7.26
On-market buy-backs for a company	7.29 - 7.35
Buy-backs not under the Corporations Act	7.36
Employee incentive schemes	7.37 - 7.38
Forfeited shares	7.39
Compliance with timetables	7.40
Timetables	Appendix 7A

### Explanatory note

This chapter deals principally with entities changing their capital, either by issuing +securities or reorganising existing capital (including reconstructions and buy-backs). Because of the complexity that often surrounds issues and reorganisations, entities are encouraged to discuss proposals with ASX before finalising them.

This chapter also contains rules that apply to an issue of +securities in a different entity.

Timetables relating to changes in capital are in Appendix 7A.

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<sup>+</sup> See chapter 19 for defined terms.

## New issues

### Issues exceeding 15% of capital

- 7.1 Without the approval of holders of +ordinary securities, an entity must not issue or agree to issue more +equity securities than the number calculated according to the following formula.

$$(A \times B) - C$$

A= The number of fully paid +ordinary securities on issue 12 months before the date of issue or agreement,

- plus the number of fully paid +ordinary securities issued in the 12 months under an exception in rule 7.2,
- plus the number of partly paid +ordinary securities that became fully paid in the 12 months,
- plus the number of fully paid +ordinary securities issued in the 12 months with approval of holders of +ordinary securities under this rule,
- less the number of fully paid +ordinary securities cancelled in the 12 months.

B= 15%

C= The number of +equity securities issued or agreed to be issued in the 12 months before the date of issue or agreement to issue *but not* under an exception in rule 7.2 or with approval under this rule.

Introduced 1/7/96. Origin: Listing Rules 3E(6)(a)(i), 3E(6)(b), 3E(6)(c)(i). Amended 1/7/97, 1/7/98.

Note: Securities issued without security holder approval with the benefit of a waiver from listing rule 7.1 are treated as being issued with security holder approval unless the terms of the waiver provide otherwise. Options issued and then cancelled in the twelve months before the date of issue or agreement to issue are not included in "C".

7.1.1 Introduced 1/7/96. Origin: Listing Rules 3E(6)(a)(i) and (ii), 3E(6)(b). Deleted 1/7/97.

7.1.2 Introduced 1/7/96. Deleted 1/7/97.

7.1.3 Introduced 1/7/96. Origin: Listing Rule 3E(6)(g). Deleted 1/7/97.

7.1.4 In working out the number of +equity securities that an entity may issue or agree to issue, and the number of +equity securities in "C", the following rules apply.

- (a) If the +equity securities are fully paid +ordinary securities, each security is counted as one.
- (b) If the +equity securities are partly paid securities, each security is counted as the maximum number of fully paid +ordinary securities into which it can be paid up.

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<sup>+</sup> See chapter 19 for defined terms.

(c) In any other case, each security is counted as ASX decides.

Introduced 1/7/97. Amended 31/3/2004.

Note: In making decisions under listing rule 7.1.4 ASX will take into account the policy objective of the rule being control over the dilution of security holders and the economic and voting characteristics of the security.

If the security is convertible into ordinary securities, each security will generally be counted as the maximum number of ordinary securities into which it can be converted. If it converts on the basis of the market value of ordinary securities at the time of conversion, it will generally be counted as the maximum number of ordinary securities into which it can be converted at the market price of ordinary securities at the time of issuing the convertible security, provided that the entity has a reasonably stable trading history.

Example: 12 months before the date it intends to issue more securities, a company has the following securities on issue:

- 10,000,000 ordinary shares;
- 2,000,000 options expiring 30 September 1999; and
- 2,000,000 partly paid shares.

In the intervening 12 months, no options have been exercised, no partly paid shares paid up and no securities of any class issued.

The entity may issue the following securities without the approval of shareholders:

- 1,500,000 ordinary securities; or
- if the securities are convertible on the basis of two ordinary securities for every convertible security, 750,000.

7.1.5 The following rules apply regarding issues of +equity securities or agreements to issue +equity securities.

- (a) An agreement to issue +equity securities that is conditional on holders of +ordinary securities approving the issue before the issue is made is not treated as an agreement. If an entity relies on this rule it must not issue the +equity securities without approval.
- (b) In working out if there is an issue of +equity securities the sale or reissue of forfeited +equity securities is treated as an issue of +equity securities.

Introduced 1/7/97. Origin: Listing Rules 7.1.1(b), 7.1.3.

7.1.6 In working out the number of fully paid +ordinary securities on issue 12 months before the date of issue or agreement in “A”, if first quotation of the entity’s securities occurred less than 12 months before the date of issue or agreement, the number of +securities is the number of fully paid +ordinary securities on issue on the date of first quotation.

Introduced 1/7/97.

## Exceptions to rule 7.1

7.2 Rule 7.1 does not apply in any of the following cases.

- Exception 1* An issue to holders of +ordinary securities made under a +pro rata issue and to holders of other +equity securities to the extent that the terms of issue of the +equity securities permit participation in the +pro rata issue.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(ii). Amended 1/7/97.

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+ See chapter 19 for defined terms.

Note: An issue is still treated as a pro rata issue under this rule if offers are not sent to overseas security holders under rule 7.7.

Cross reference: rules 6.19 and 6.20.

*Exception 2* An issue under an underwriting agreement to an underwriter of a +pro rata issue to holders of +ordinary securities if the underwriter receives the +securities within 15 +business days after the close of the offer.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(ii). Amended 1/7/97.

*Exception 3* An issue to make up the shortfall on a +pro rata issue to holders of +ordinary securities. The entity must make the issue within 3 months after the close of the offer, and the directors of the entity (in the case of a trust, the responsible entity) must have stated as part of the offer that they reserve the right to issue the shortfall at their discretion. The issue price must not be less than the price at which the +securities were offered under the +pro rata issue.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(vi). Amended 1/7/98, 24/10/2005.

*Exception 4* An issue on the +conversion of +convertible securities. The entity must have issued the +convertible securities before it was listed or complied with the listing rules when it issued the +convertible securities.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(iii). Amended 1/7/98.

Note: The definition of convertible securities includes options.

*Exception 5* An issue under an off-market bid that is required to comply with the Corporations Act or under a merger by way of scheme of arrangement under Part 5.1 of the Corporations Act.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(iv). Amended 1/7/97, 13/3/2000, 30/9/2001.

*Exception 6* An issue to fund the cash consideration in any of the following circumstances if the terms of the issue are disclosed in the takeover or scheme documents.

- An off-market bid that is required to comply with the Corporations Act, when the offer becomes unconditional.
- A market bid that is required to comply with the Corporations Act, when the market bid is announced under section 635 of the Corporations Act.
- A merger by way of scheme of arrangement under Part 5.1 of the Corporations Act, when the arrangement is approved by the court under section 411(4) of the Corporations Act.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(v). Amended 1/7/97, 1/9/99, 13/3/2000, 30/9/2001.

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<sup>+</sup> See chapter 19 for defined terms.

*Exception 7* An issue under a +dividend or distribution plan excluding an issue to the plan's underwriters. Exception 7 is only available where the +dividend or distribution plan does not impose a limit on participation.

Note: Exception 7 only applies where there is no limit on participation under the dividend or distribution plan and security holders are able to elect to receive all of their dividend or distribution as securities. For example, Exception 7 would not apply in the following circumstances:

- The company has set a cap which may be a specified dollar amount e.g. securityholders can participate to a maximum value of \$x in respect of their entitlement.
- The company has specified a maximum number of securities e.g. securityholders can only receive securities in lieu of dividend payable for x number of securities.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(vii)b. Amended 1/7/98, 31/3/2004.

(a) Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(vii)a. Amended 1/7/98, 11/3/2002. Deleted 31/3/2004.

(b) Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(vii)b. Amended 1/7/98. Deleted 31/3/2004.

*Exception 8* Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(viii)a.ii. Deleted 1/7/2000.

*Exception 9* An issue under an +employee incentive scheme if within 3 years before the date of issue one of the following occurred.

(a) In the case of a scheme established before the entity was listed - a summary of the +terms of the scheme were set out in the prospectus, Product Disclosure Statement or information memorandum.

Introduced 1/7/2000. Origin: Listing Rule 7.2 Exception 8(a). Amended 11/3/2002.

(b) Holders of +ordinary securities have approved the issue of +securities under the scheme as an exception to this rule. The notice of meeting must have included each of the following.

- A summary of the +terms of the scheme.
- The number of +securities issued under the scheme since the date of the last approval.
- A +voting exclusion statement.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(c)(viii)b. Amended 1/7/2000.

Note: Exception 9 is only available if there has been no change to the number or terms of the securities to be issued, the mechanism for pricing or payment or any other material terms of the scheme.

(c) Introduced 1/7/2000. Origin: Listing Rule 7.2 Exception 8(b). Deleted 31/4/2004.

*Exception 10* An issue of preference shares which do not have any rights of +conversion into another +class of +equity security. The preference shares must comply with chapter 6.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(f).

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+ See chapter 19 for defined terms.

*Exception 11* The reissue or sale of forfeited shares within 6 weeks after the day on which the call was due and payable.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(h).

*Exception 12* An issue on the exercise of options to an underwriter of the exercise. Exception 12 is only available if each of the following applies.

- (a) The entity complied with the listing rules when it issued the options.
- (b) The underwriter receives the +underlying securities within 10 +business days after expiry of the options.
- (c) The underwriting agreement was disclosed under rule 3.11.3.

Introduced 1/7/96.

*Exception 13* An issue under an agreement to issue +securities. The entity must have complied with the listing rules when it entered into the agreement to issue the +securities.

Introduced 1/9/99.

*Exception 14* An issue made with the approval of holders of +ordinary securities under listing rule 10.11. The notice of meeting must state that if approval is given under listing rule 10.11, approval is not required under listing rule 7.1.

Introduced 1/7/2000.

Cross reference: rule 10.13.

*Exception 15* An issue of +securities under a security purchase plan, excluding an issue to the plan's underwriters, making offers not exceeding \$5,000 in value to existing security holders which do not require the issue of a disclosure document or Product Disclosure Statement in accordance with relief granted by +ASIC. Exception 15 is only available once in any 12 month period and if both of the following apply.

- The number of +securities to be issued is not greater than 30% of the number of fully paid +ordinary securities already on issue.
- The issue price of the +securities is at least 80% of the average +market price for +securities in that +class. The average is calculated over the last 5 days on which sales in the +securities were recorded, either before the day on which the issue was announced or before the day on which the issue was made.

Introduced 31/3/2004.

Note: See ASIC instrument IR 02/17 which discusses ASIC policy in relation to small offers to existing security holders by listed entities.

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<sup>+</sup> See chapter 19 for defined terms.

*Exception 16* An issue of +securities approved for the purposes of Item 7 of section 611 of the Corporations Act.

Introduced 31/3/2004.

Cross reference: rule 4.10.22

### Notice requirements for approval under rule 7.1 and 7.1.5(a)

7.3 For the holders of +ordinary securities to approve an issue or agreement to issue, the notice of meeting must include each of the following.

7.3.1 The maximum number of +securities the entity is to issue (if known) or the formula for calculating the number of +securities the entity is to issue.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(i). Amended 1/7/2000.

7.3.2 The date by which the entity will issue the +securities. The date must be no later than 3 months after the date of the meeting. However, if court approval of a reorganisation of capital (in the case of a trust, interests) is required before the issue, the date must be no later than 3 months after the date of court approval.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(ii). Cross reference: chapter 10. If the issue requires approval under chapter 10, the time limit under that chapter for issue of the securities must be complied with.

7.3.3 The issue price of the +securities, which must be either:

- a fixed price; or

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(iii)a.

- a minimum price. The minimum price may be fixed or a stated percentage that is at least 80% of the average +market price for +securities in that +class. The average is calculated over the last 5 days on which sales in the +securities were recorded before the day on which the issue was made or, if there is a prospectus, Product Disclosure Statement or offer information statement relating to the issue, over the last 5 days on which sales in the +securities were recorded before the date the prospectus, Product Disclosure Statement or offer information statement is signed.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(e)(iii)b. Amended 1/7/97, 13/3/2000, 11/3/2002.

7.3.4 The names of the allottees (if known) or the basis upon which allottees will be identified or selected.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(iv). Amended 30/9/2001.

7.3.5 The terms of the +securities.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(v).

7.3.6 The intended use of the funds raised.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(vi).

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<sup>+</sup> See chapter 19 for defined terms.

7.3.7 The dates of allotment or a statement that allotment will occur progressively.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(e)(vii).

7.3.8 A <sup>+</sup>voting exclusion statement. This does not apply if security holders are to receive a priority entitlement as part of a public offer and the notice of meeting states each of the following.

(a) The priority entitlement is at least 10% of the offer or in another way, in ASX's opinion, that is fair in all the circumstances.

(b) The entity will limit the number of <sup>+</sup>securities it issues to a holder of <sup>+</sup>ordinary securities to the higher of 5% of all the <sup>+</sup>securities being offered under the priority entitlement and the number the holder would be entitled to under a <sup>+</sup>pro rata issue of all those <sup>+</sup>securities.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(e)(viii). Amended 31/3/2004.

7.3.9 In the case of an agreement for the allotment of <sup>+</sup>securities which is part of a public offer, a <sup>+</sup>voting exclusion statement in relation to a party to the agreement, and an adequate summary of the agreement.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(e)(viii).

## Subsequent approval of an issue of securities

7.4 An issue of <sup>+</sup>securities made without approval under rule 7.1 is treated as having been made with approval for the purpose of rule 7.1 if each of the following apply.

7.4.1 The issue did not breach rule 7.1.

7.4.2 Holders of <sup>+</sup>ordinary securities subsequently approve it.

Introduced: 1/7/96. Origin: Listing Rule 3E(6)(d).

7.5 For the holders to approve the issue subsequently, the notice of meeting must include each of the following.

7.5.1 The number of <sup>+</sup>securities allotted.

7.5.2 The price at which the <sup>+</sup>securities were issued.

7.5.3 The terms of the <sup>+</sup>securities.

7.5.4 The names of the allottees or the basis on which allottees were determined.

7.5.5 The use (or intended use) of the funds raised.

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<sup>+</sup> See chapter 19 for defined terms.

7.5.6 A <sup>+</sup>voting exclusion statement.

Introduced 1/7/96. Origin: Listing Rule 3E(6)(d).

## No issue without approval before a meeting to appoint directors or responsible entity

7.6 An entity must not issue or agree to issue any <sup>+</sup>equity securities without the approval of the holders of its <sup>+</sup>ordinary securities to the issue or agreement to issue if the holder or beneficial owner of more than 50% of the <sup>+</sup>ordinary securities tells the entity in writing that the <sup>+</sup>person intends to call a general meeting to appoint or remove directors (if the entity is a trust, to appoint or remove a responsible entity). An agreement to issue <sup>+</sup>equity securities that is conditional on holders of <sup>+</sup>ordinary securities approving the issue before the issue is made is not treated as an agreement but the entity must not issue the <sup>+</sup>equity securities without approval.

7.6.1 This restriction applies for 2 months after the date of the advice, but does not prevent an issue under a written contract entered into before the entity received the advice.

7.6.2 If the person giving the advice is not a member, the advice must be accompanied by a statutory declaration verifying the <sup>+</sup>person's beneficial ownership.

Introduced 1/7/96. Origin: Listing Rule 3E(9). Amended 1/7/98, 30/9/2001.

## Issues to Australian and New Zealand holders and overseas holders

7.7 If an entity proposes a <sup>+</sup>pro rata issue, it must offer the <sup>+</sup>securities to all holders with registered addresses in Australia or New Zealand.

7.7.1 An entity must also offer the <sup>+</sup>securities to all holders with registered addresses *outside* Australia and New Zealand. However, this rule does not apply in relation to a particular place if each of the following conditions is met.

(a) The entity decides that it is unreasonable to make the offer having regard to each of the following.

- The number of holders in the place where the offer would be made.
- The number and value of <sup>+</sup>securities the holders would be offered. The cost of complying with the legal requirements, and requirements of a regulatory authority, in the place.

Introduced: 1/7/96. Origin: Listing Rule 3E(10)(b).

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<sup>+</sup> See chapter 19 for defined terms.

- (b) The entity sends each holder to whom it will not offer the +securities details of the issue and advice that the entity will not offer +securities to the holder.

Introduced: 1/7/96. Origin: Listing Rule 3E(10)(b).

- (c) In the case of a renounceable +pro rata issue, the entity also does each of the following.

- Appoints a nominee to arrange for the sale of the entitlements that would have been given to those holders and to account to them for the net proceeds of the sale.
- Advises each holder not given the entitlements that a nominee in Australia will arrange for sale of the entitlements and, if they are sold, for the net proceeds to be sent to the holder.

Introduced 1/7/96. Origin: Listing Rules 3E(10)(b), 3E(11).

Cross reference: rule 15.10.

## Issues under a dividend or distribution plan

- 7.8 An entity may only make an issue under a +dividend or distribution plan if each of the following conditions is met.

- 7.8.1 The +securities rank equally with a +class of quoted +securities (ignoring the fact that they do not rank equally for the next dividend - in the case of a trust, next distribution - and any right to participate in a concurrent offer).

Introduced: 1/7/96. Origin: Listing Rule 3J(29)(a).

- 7.8.2 The plan allows participants to choose whether to participate for part or all of their holdings. However, the plan may limit participation on the following terms:

- (a) the limit is a number of +securities, or a sum of money, that is the same for all holders (except a brokers' +clearing account, a trustee or a nominee); and
- (b) if the +securities are held in a brokers' +clearing account, or by a trustee or nominee, the broker, trustee or nominee must be allowed to participate for each +person whose +securities are held in that way.

Introduced 1/7/96. Origin: Listing Rule 3J(29)(b).

Example: The exception for clearing accounts enables transferees to participate despite the temporary holding of the securities by the broker.

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<sup>+</sup> See chapter 19 for defined terms.

## Issues during a takeover offer or takeover announcement

- 7.9 An entity must not issue or agree to issue <sup>+</sup>equity securities, without the approval of holders of <sup>+</sup>ordinary securities, for 3 months after it is told in writing that a <sup>+</sup>person is making, or proposes to make, a <sup>+</sup>takeover for <sup>+</sup>securities in it. This rule does not apply to an issue or agreement to issue in any of the following cases.

Introduced 1/7/96. Origin: Listing Rule 3R(3). Amended 1/7/97, 1/7/98, 1/9/99, 13/3/2000.

Cross reference: Rule 7.1 allows issues of up to 15%. However this rule stops any issue except as provided in it.

*Exception 1* An issue notified to ASX before the entity was told, or made under an agreement to issue notified to ASX before the entity was told.

Introduced 1/7/96. Origin: Listing Rule 3R(3). Amended 1/7/98, 1/9/99.

*Exception 2* A <sup>+</sup>pro rata issue to holders of <sup>+</sup>ordinary securities.

Introduced 1/7/96. Origin: Listing Rule 3R(3).

*Exception 3* An issue made on the exercise of rights of <sup>+</sup>conversion.

Introduced 1/7/96. Origin: Listing Rule 3R(3).

*Exception 4* An issue made under an off-market bid that is required to comply with the Corporations Act or under a merger by way of scheme of arrangement under Part 5.1 of the Corporations Act.

Introduced 1/7/96. Origin: Listing Rule 3R(3). Amended 13/3/2000, 30/9/2001.

*Exception 5* An issue made under a <sup>+</sup>dividend or distribution plan that is in operation at the time the notice is received.

Introduced 1/7/96. Origin: Listing Rule 3R(3).

*Exception 6* An agreement to issue <sup>+</sup>equity securities that is conditional on holders of <sup>+</sup>ordinary securities approving the issue before the issue is made. If an entity relies on this exception it must not issue the <sup>+</sup>equity securities without approval.

Introduced 30/9/2001.

## No interference etc with issue of securities

- 7.10 Introduced 1/7/96. Origin: Listing Rule 3D(1C). Deleted 24/10/2005.

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<sup>+</sup> See chapter 19 for defined terms.

## Rules that apply to all pro rata issues

7.11 A +pro rata issue must also meet each of the following requirements.

7.11.1 The basis for deciding the entitlement must not change during the offer period.

Introduced 1/7/96. Origin: Listing Rule 3E(12)(a)(ii)b.

7.11.2 The issue price of each +security must not contain a fraction of a cent. However, if the minimum bid that may be made under the ASX Market Rules in relation to +securities of the same +class may contain a fraction of a cent, the issue price may contain the same fraction.

Introduced 1/7/96. Origin: Listing Rule 3E(12)(a)(ii)c. Amended 1/9/99, 3/5/2004.

Note: ASX Market Rule Procedures provide as follows:

(1) Bids and Offers may only be entered on SEATS in multiples of the minimum bids set out below:

(a) Equity Securities and redeemable preference shares which are Loan Securities in accordance with paragraph (c) of the definition of Loan Securities:

<u>Market Price</u>	<u>Minimum Bid</u>
Up to 10c	0.1c
Over 10c up to 50c	0.5c
Over 50c up to \$998.99	1c
\$999 or greater	\$1

(b) Loan Securities excluding redeemable preference shares which are Loan Securities in accordance with paragraph (c) of the definition of Loan Securities:

<u>Market Price</u>	<u>Minimum Bid</u>
Any market price	0.1c

(2) The Exchange may in its discretion, vary the size of the minimum bid referred to in (1) and (2) above.

7.11.3 The ratio of +securities offered must not be greater than one +security for each +security held. This rule does not apply to a +bonus issue. This rule also does not apply if the following conditions are met.

(a) The offer is renounceable.

(b) The issue price is not more than the average +market price for +securities in that +class. The average is calculated over the last 5 days on which sales in the +securities were recorded before the day on which the issue was announced.

Introduced 1/7/96. Origin: Listing Rule 3E(13)(a). Amended 1/7/2000.

Note: If free attaching options are offered, they are not taken into account. However see rule 7.16.

7.11.4 The disclosure document, Product Disclosure Statement or offer may allow offerees to subscribe for a greater number of +securities than their entitlement only if:

(a) subscriptions in excess of entitlements are made out of the shortfall; and

(b) for a renounceable offer, the entity complies with rule 7.12.

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<sup>+</sup> See chapter 19 for defined terms.

Introduced 1/7/96. Origin: Listing Rule 3E(13)(b). Amended 13/3/2000, 11/3/2002.

Note: As at 13/3/2000, disclosure document for an offer of securities is defined in section 9 of the Corporations Act as meaning:

- (a) a prospectus for the offer; or
- (b) a profile statement for the offer; or
- (c) an offer information statement for the offer.

7.11.5 The offer must not include alternatives, except to allow full or part payment on acceptance.

Introduced 1/7/96. Origin: Listing Rule 3E(13)(h).

7.11.6 If it is an offer of shares and options, the entity must issue separate certificates (if certificated).

Introduced 1/7/96. Origin: Listing Rule 3E(13)(f)(iii).

Note: ASX quotes shares and options separately.

## Rules that apply to all entitlements issues

7.12 In the case of an offer that is not pro rata, or an offer to which rules 7.11.4 or 7.17.1 apply, the entity must accept evidence of entitlement constituted by copies of certified contract notes from +market participants of ASX. The notes must show that +securities have been acquired by the +market participant's clients on a "cum" basis. The entity must make application forms available to those +market participants for their clients to complete and return.

Introduced 1/7/96. Origin: Listing Rule 3E(12)(a)(v)b. Amended 1/7/2000, 24/10/2005.

7.13 If an entity is undertaking more than 1 +corporate action, it must not have a +record date to identify holders entitled to participate in a subsequent one until it has updated its register in relation to the preceding one.

Introduced: 1/7/96. Origin: Listing Rule 3A(5)(d).

Example: Following a bonus issue, the entity must have entered the bonus securities into the uncertificated holdings of the holders, and issued certificates in relation to its certificated subregister, before the record date for determining those entitled to a proposed pro rata issue.

7.14 An entity must not have a +record date for any purpose until at least 6 +business days after its last +record date. This rule does not prevent an entity having identical +record dates for different purposes.

Introduced 1/7/96. Origin: Listing Rule 3A(5)(e). Amended 1/2/99.

7.15 If an entity must get the approval of holders of +ordinary securities to make an offer, or issue +securities, the +record date to decide entitlements must be at least 7 +business days after the date of the meeting.

Introduced 1/7/96. Origin: Listing Rule 3E(13)(c). Amended 1/2/99.

## Rules that apply to issues of options

7.16 An entity must not issue options if it would have more options on issue than +underlying securities, except under an offer of one +ordinary security and one option for each +ordinary security.

Introduced 1/7/96. Origin: Listing Rule 3E(13)(g). Amended 1/7/97.

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+ See chapter 19 for defined terms.

## Rules that apply to any issue in a different entity

7.17 If an entity offers its +security holders an entitlement to +securities in another entity, the offers must be pro rata, or made in another way that, in ASX's opinion, is fair in all the circumstances. There must be no restriction on the number of +securities which a holder must hold before the entitlement accrues. This rule does not apply if the resulting holding would be less than a holding with a value of \$500 and no facility to round up is offered.

Introduced 1/7/96. Origin: Listing Rule 3E(15)(a).

Cross reference: rule 11.4.

7.17.1 If subscriptions in excess of entitlements are allowed, the entity must comply with rule 7.12.

Introduced 1/7/96. Origin: Listing Rule 3E(15)(b), (c).

7.17.2 The +record date to decide entitlements must be at least 7 +business days after the disclosure document, Product Disclosure Statement or information memorandum is given to ASX.

Introduced 1/7/96. Origin: Listing Rule 3E(15)(d). Amended 1/2/99, 13/3/2000, 11/3/2002.

Note: As at 13/3/2000, disclosure document for an offer of securities is defined in section 9 of the Corporations Act as meaning:

- (a) a prospectus for the offer; or
- (b) a profile statement for the offer; or
- (c) an offer information statement for the offer.

## Reorganisations of capital

### General rule for an orderly market

7.18 If an entity proposes to reorganise its capital (in the case of a trust, interests) in any way, it must consult ASX to ensure that an orderly market is maintained in its +securities.

Introduced 1/7/96. Origin: Listing Rule 3N(1)(b).

Cross reference: chapter 8.

### Notifying ASX

7.19 An entity that has applied to a court for approval of a reorganisation of its capital (in the case of a trust, interests) must tell ASX of each of the following steps.

7.19.1 Court approval. It must do so immediately after the court has approved the application.

7.19.2 If the court order will be lodged with a regulatory authority, the date when the court order will be lodged with the regulatory authority. It must do so at least 24 hours before the court order is lodged.

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<sup>+</sup> See chapter 19 for defined terms.

- 7.19.3 Lodgement of the court order with the regulatory authority. It must do so immediately after it is lodged with the regulatory authority. The entity must give ASX a copy of the court order at the same time.

Introduced 1/7/96. Origin: Listing Rule 3N(2). Amended 1/7/98.

Cross reference: rule 3.10.1.

## Reorganisation of shares and units

- 7.20 If an entity proposes to reorganise its capital, (in the case of a trust, interests) it must tell +equity security holders in writing each of the following.

7.20.1 The effect of the proposal on the number of +securities and the amount unpaid (if any) on the +securities.

7.20.2 The proposed treatment of any fractional entitlements arising from the reorganisation.

7.20.3 The proposed treatment of any +convertible securities on issue.

Introduced 1/7/96. Origin: Listing Rule 3N(1)(a). Amended 1/7/98.

Note: The definition of convertible securities includes options.

## Reorganisation of convertible securities (except options)

- 7.21 An entity which has +convertible securities (except options) on issue may only reorganise its capital (in the case of a trust, interests) if, in respect of the +convertible securities, the number of +securities or the +conversion price, or both, is reorganised so that the holder of the +convertible securities will not receive a benefit that holders of +ordinary securities do not receive. This rule does not prevent a rounding up of the number of +securities to be received on conversion if the rounding up is approved at the +security holders' meeting which approves the reorganisation.

Introduced 1/7/96. Origin: Listing Rules 3N(3)(a).

## Reorganisation of options

- 7.22 An entity with options on issue must comply with the following rules in relation to the way the options are treated under a reorganisation.

7.22.1 *In a consolidation of capital* - the number of options must be consolidated in the same ratio as the ordinary capital and the exercise price must be amended in inverse proportion to that ratio.

Introduced: 1/7/96. Origin : Listing Rule 3N(4)(a)

Example: Company A consolidates 2 fully paid ordinary shares of into 1 fully paid ordinary share. Every 2 options exercisable at \$1.00 each are consolidated into 1 option exercisable at \$2.00 for 1 fully paid ordinary share.

7.22.2 *In a sub-division of capital* - the number of options must be sub-divided in the same ratio as the ordinary capital and the exercise price must be amended in inverse proportion to that ratio.

Introduced: 1/7/96. Origin : Listing Rule 3N(4)(b)

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<sup>+</sup> See chapter 19 for defined terms.

Example: Company A splits 1 fully paid ordinary share into 2 fully paid ordinary shares. Every option exercisable at \$2.00 each is split into 2 options exercisable at \$1.00 each for an ordinary fully paid share.

- 7.22.3 *In a return of capital* - the number of options must remain the same, and the exercise price of each option must be reduced by the same amount as the amount returned in relation to each +ordinary security.

Introduced: 1/7/96. Origin : Listing Rule 3N(4)(c). Amended 1/7/98.

Example: Company A has fully paid shares on issue. It returns \$1.00 per ordinary share to shareholders. Every option exercisable at \$2.00 each for a fully paid share becomes an option exercisable at \$1.00 each for a fully paid share.

- 7.22.4 *In a reduction of capital by a cancellation of paid up capital that is lost or not represented by available assets where no securities are cancelled* - the number of options and the exercise price of each option must remain unaltered.

Introduced: 1/7/96. Origin: Listing Rule 3N(4)(d). Amended 1/7/98.

Example: Company A has fully paid shares on issue. It has lost the equivalent of \$1.00 per share and cancels the equivalent of \$1.00 from each share. Every option exercisable at \$2.00 each for a fully paid share remains an option exercisable at \$2.00 each for a fully paid share.

- 7.22.5 *In a pro rata cancellation of capital* - the number of options must be reduced in the same ratio as the ordinary capital and the exercise price of each option must be amended in inverse proportion to that ratio.

Introduced: 1/7/96. Origin : Listing Rule 3N(4)(e)

Example: Company A has fully paid shares on issue. It has lost \$1.00 per share and cancels half the shares. Its capital is reduced from 1,000,000 shares to 500,000 shares. It has on issue 1,000,000 options exercisable at \$2.00 each for a fully paid share. Following the reorganisation, it has on issue 500,000 options exercisable at \$4.00 each for a fully paid share.

- 7.22.6 *In any other case* - the number of options or the exercise price, or both, must be reorganised so that the holder of the option will not receive a benefit that holders of +ordinary securities do not receive. This rule does not prevent a rounding up of the number of +securities to be received on exercise if the rounding up is approved at the +security holders' meeting which approves the reorganisation.

Introduced: 1/7/96. Origin : Listing Rules 3G(1)(d), 3N(4)(f), 3N(4)(g).

## Amending convertible securities to allow reorganisation

- 7.23 If in a reorganisation the terms of +convertible securities do not allow them to be treated in accordance with the listing rules, the terms must be amended so that the +convertible securities can be treated in accordance with the listing rules.

Introduced 1/7/96. Origin: Listing Rule 3N(3)(b).

Note: If the terms of the convertible securities cannot be amended, this rule prevents the reorganisation being undertaken. This rule also covers options.

Example: The terms may be amended by court order or agreement of the holders of the convertible securities.

Cross reference: rule 6.16.

## Reorganisation of partly paid securities

- 7.24 An entity which has partly paid shares on issue must comply with the following specific rules in relation to the way the partly paid shares are treated under a reorganisation.

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<sup>+</sup> See chapter 19 for defined terms.

7.24.1 The number of partly paid shares must be reorganised in the same proportion as the other +classes of shares.

7.24.2 The reorganisation must not involve cancellation or reduction of the total amount payable and unpaid by the holder.

Introduced 1/7/96. Origin: Listing Rule 3N(5).

7.24A An entity must not return capital to holders of +restricted securities.

Introduced 24/10/2005.

Note: A return of capital may be in cash or in specie.

Example: Company A has 10,000,000 fully paid shares on issue, of which 1,000,000 are restricted securities. It proposes to return \$1.00 per ordinary share to shareholders, ie a total of \$10,000,000. It must structure the reduction of capital as a selective reduction that excludes the 1,000,000 restricted securities, i.e as a return of \$1.11 per unrestricted ordinary share.

Cross reference: Chapter 9

## Issues and reorganisations affecting trading prices

7.25 An entity must not issue bonus +securities or reorganise its capital (in the case of a trust, interests) if the effect of doing so would be to decrease the price at which its +main class of +securities would be likely to trade after the issue or reorganisation to an amount less than 20 cents.

Introduced 1/7/96. Origin: Listing Rule 3J(6). Amended 1/7/98.

Example: An entity with a trading price of 14 cents would be permitted to reorganise its capital if the result was to increase its trading price to 18 cents. It would not be permitted to reorganise its capital if the result is likely to be any decrease in its trading price.

An entity with a trading price of 28 cents would be permitted to reorganise its capital if the result is likely to be a decrease in its trading price to 21 cents. It would not be permitted to reorganise its capital if the result is likely to be a decrease in its trading price to 19 cents.

Cross reference: rules 2.1 condition 2, 6.14, 7.18.

## Cancelling forfeited shares by a limited liability company

7.26 A limited liability company may only cancel forfeited shares if each of the following conditions is met.

7.26.1 The cancellation is approved by holders of +ordinary securities. The notice of meeting must include each of the following.

(a) Details of the forfeited shares, including their total issue price, the amount called but unpaid, and the amount uncalled.

Introduced: 1/7/96. Origin: Listing Rule 3J(32)(a). Amended 1/7/98.

(b) The outstanding liability of the former holder, and what action the company has taken (and will take) to recover that amount.

(c) A +voting exclusion statement.

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+ See chapter 19 for defined terms.

7.26.2 Under the company's constitution the former holder must remain liable (in the absence of the approval of holders of ordinary shares) for any amount called but unpaid on the shares despite the fact that they have been forfeited.

Introduced: 1/7/96. Origin: Listing Rule 3J(32)(a). Amended 1/7/98.

7.26.3 Liability for the amount called but unpaid in respect of forfeited shares which have been cancelled is not released or waived without the approval of holders of ordinary shares. This approval may be given at the meeting that approves the cancellation, or at another meeting. If the approval is given at another meeting, the notice of meeting must include each of the following.

- (a) Details of the forfeited shares, including their total issue price, the amount called but unpaid and the amount that is uncalled.
- (b) The outstanding liability of the former holder, what action the company has taken to recover those amounts (and what action it will take if the meeting does not release the liability).
- (c) A <sup>+</sup>voting exclusion statement.

Introduced 1/7/96. Origin: Listing Rule 3J(32)(a). Amended 1/7/98.

7.27 Introduced 1/7/96. Origin: Listing Rule 3J(32)(b). Deleted 1/7/98.

7.28 Introduced: 1/7/96. Origin: Listing Rule 3J(32)(b)(ii). Deleted 1/7/98.

## On-market buy-backs

### Pre-condition for an on-market buy-back

7.29 A company may only buy shares under an on-market buy-back if transactions in the company's shares were recorded on ASX on at least 5 days in the 3 months before it buys back the shares.

Introduced 1/9/99. Origin: Listing Rules 3V(4) and 7.29.2 Amended 11/01/10

Cross reference: rule 3.8A.

Note; Class Order 07/422 sets out the modification to Chapter 5C of the Corporations Act relating to on-market buy-backs by ASX-listed managed investment schemes. This provides, amongst other things, that a responsible entity that buys back an interest in the scheme must comply with the listing rules of ASX (as in force on [the date of commencement of s. 601KH]) that apply to buy-backs as if:

- (i) the scheme were a company included in the official list of the financial market of ASX; and
- (ii) interests in the scheme were shares in the company.

7.29.1 Introduced 1/7/96. Origin: Listing Rule 3V(4). Amended 1/9/97. Deleted 1/9/99. Refer rule 3.8A.

7.29.2 Introduced 1/7/96. Origin: Listing Rule 3V(4). Amended 1/7/97. Deleted 1/9/99. Refer rule 7.29.

7.30 Introduced 1/7/96. Origin: Listing Rule 3V(4), (5). Amended 1/7/97. Deleted 1/9/99. Refer rule 3.8A.

7.31 Introduced 1/7/96. Origin: Listing Rule 3V(8). Amended 1/7/97. Deleted 1/9/99.

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<sup>+</sup> See chapter 19 for defined terms.

7.31.1 Introduced 1/7/97. Deleted 1/9/99.

7.31.2 Introduced 1/7/97. Deleted 1/9/99.

7.32 Introduced 1/7/96. Deleted 1/9/99.

### Purchase price under on-market buy-back

7.33 A company may only buy back shares under an on-market buy-back at a price which is not more than 5% above the average of the +market price for +securities in that +class. The average is calculated over the last 5 days on which sales in the shares were recorded before the day on which the purchase under the buy-back was made.

Introduced 1/7/96. Origin: Listing Rule 3V(7)(b) Amended 11/01/10

Note; Class Order 07/422 sets out the modification to Chapter 5C of the Corporations Act relating to on-market buy-backs by ASX-listed managed investment schemes. This provides, amongst other things, that a responsible entity that buys back an interest in the scheme must comply with the listing rules of ASX (as in force on [the date of commencement of s. 601KH]) that apply to buy-backs as if:

- (i) the scheme were a company included in the official list of the financial market of ASX; and
- (ii) interests in the scheme were shares in the company.

7.34 Introduced 1/7/96. Origin: Listing Rules 3V(7)(c). Amended 1/9/99. Deleted 30/9/2001.

7.35 Introduced 1/7/96. Origin: Listing Rule 3V(10). Deleted 1/9/99. Refer rule 3.8A.

### Buy-backs not under the Corporations Act

7.36 An entity not subject to the buy-back provisions of the Corporations Act may buy back its +securities on-market only if it consults ASX before the buy-back and complies with any requirements ASX sets. ASX may require the entity to comply with the Corporations Act as if it were a company, or with the listing rules relating to on-market buy-backs by companies, with any adaptations that, in ASX's opinion, are appropriate.

Introduced 1/7/96. Origin: Listing Rule 3V(12). Amended 30/9/2001, 11/01/10

Note: Trusts cannot have withdrawal or buy-back provisions in their trust deeds that operate while they are listed. See rule 1.1 Condition 5. Therefore this rule will apply to a trust that wants to make a buy-back of units. Class Order 07/422 sets out the modification to Chapter 5C of the Corporations Act relating to on-market buy-backs by ASX-listed managed investment schemes. This provides, amongst other things, that a responsible entity that buys back an interest in the scheme must comply with the listing rules of ASX (as in force on [the date of commencement of s. 601KH]) that apply to buy-backs as if:

- (i) the scheme were a company included in the official list of the financial market of ASX; and
- (ii) interests in the scheme were shares in the company.

7.37 Introduced 1/7/96. Origin: Listing Rule 3W(1)(a), (b). Deleted 1/7/2000.

7.38 Introduced 1/7/96. Origin: Listing Rule 3W(2)(c). Deleted 1/7/2000.

### Forfeited shares

7.39 If forfeited shares are auctioned, the auction must be held at the entity's +home branch. The following must be terms of the auction.

7.39.1 Settlement must be effected on the day of the auction or, if the purchaser chooses, the next day on which banks are open for business.

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+ See chapter 19 for defined terms.

7.39.2 The shares must not be offered in parcels larger than 10% of the total number to be offered.

Introduced 1/7/96. Origin: Listing Rule 3P(3).

Cross reference: rule 2.11.

## **Compliance with timetables**

7.40 An entity must comply with Appendix 7A.

Introduced 1/7/96.

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<sup>+</sup> See chapter 19 for defined terms.