



# ASX RECOVERY RULES

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## SECTION 12 MISCELLANEOUS

### 12.1 Payments by Participants

Each payment made by a Participant under these Recovery Rules or the Recovery Handbook must:

- (a) transfer all right, title and interest in the amount of money paid to the ASX CCP; and
- (b) be in the currency in which it is due and in immediately available and freely transferable funds; and
- (c) be made on the due date for value on that date in Sydney; and
- (d) be in full without set-off, cross-demand or counterclaim and without any deduction for taxes, levies, imposts, charges or duties (including stamp and transaction duties) imposed by any authority unless prohibited by law. Payments in respect of which such deduction or withholding is required to be made by law by the Participant, will be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the ASX CCP receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made; and
- (e) be made in accordance with the Recovery Handbook.

### 12.2 Consequences of Participant not complying

If a Participant does not pay an amount due to be paid by it in the time and manner required under these Recovery Rules then:

- (a) the Participant must pay interest to the ASX CCP on the unpaid amount. Interest is to be calculated according to the formula set out in the Recovery Handbook; and
- (b) the failure is a contravention of the ASX CCP Rules and constitutes an event of default and a Default under the ASX CCP Rules and the ASX CCP may exercise any of its rights in connection with that Default; and
- (c) without limiting paragraph (b), the ASX CCP may immediately, or with such notice to a Participant as the ASX CCP in its absolute discretion decides, suspend the Participant's authority to clear all or any category of Contract and enforce its rights in connection with the Recovery Rules or impose such other conditions or restrictions on the Participant's participation as the ASX CCP sees fit until the amount is paid.

### 12.3 Payments by the ASX CCP

If a law requires the ASX CCP to withhold or deduct an amount in respect of taxes, levies, imposts, charges or duties (including stamp and transaction duties) imposed by any authority from a payment to a Participant, the ASX CCP will withhold or deduct the amount. The ASX CCP is not liable to pay any additional amount to the Participant in respect of any such withholding or deduction.

## 12.4 Discretion in exercising rights

The ASX CCP may exercise a right or remedy or give or refuse its consent under these Recovery Rules in any way it considers appropriate (including by imposing conditions).

Any exercise of discretion or other choice by the ASX CCP under these Recovery Rules may be made in the absolute discretion of the ASX CCP unless these Recovery Rules expressly state otherwise. However, the ASX CCP will exercise such rights and remedies in good faith having regard to the obligations, duties, powers and discretions which it has as the holder of, or in connection with the holding of, an Australian CS facility licence under Part 7.3 of the Corporations Act.

The rights and remedies of the ASX CCP under these Recovery Rules may be exercised even if the ASX CCP has a personal interest in their exercise.

Each Participant agrees to comply with all conditions in any consent the ASX CCP gives in connection with these Recovery Rules.

## 12.5 Partial exercising of rights

If the ASX CCP does not exercise a right or remedy under these Recovery Rules fully or at a given time, it may still exercise it later.

## 12.6 Failure to provide notice

A failure by the ASX CCP to provide a notice of an exercise of rights in accordance with these Recovery Rules, or non-receipt by any Participant of the notice, does not invalidate the exercise of those rights.

## 12.7 No liability for loss

Without limiting any other limitation on the liability of the ASX CCP under the ASX CCP Rules or otherwise, the ASX CCP, each Related Body Corporate of the ASX CCP and each of those entities' officers, employees, representatives, agents and contractors is not liable for any direct, indirect or consequential loss, liability, damage, cost or expense (including legal costs) whatsoever arising in any way (including but not limited to by negligence) from the exercise or attempted exercise of, failure to exercise, or delay in exercising, a power, right, discretion or remedy under these Recovery Rules.

## 12.8 Set-off

Without limiting any other rights the ASX CCP may have under the ASX CCP Rules or otherwise, at any time, the ASX CCP may set off any amount owing by the ASX CCP to a Participant (whether or not due for payment) against any amount due for payment by the Participant to the ASX CCP in connection with the ASX CCP Rules (including these Recovery Rules).

The ASX CCP may do anything necessary to effect any set-off under this Rule (including varying the time for payment of any amount owing by the ASX CCP to the Participant and making currency exchanges).

## 12.9 Defaulting Participants to indemnify the ASX CCP

Each Defaulting Participant indemnifies and will keep indemnified the ASX CCP and its officers, employees, representatives, agents and contractors against all actions, proceedings, claims, demands, losses, damages, costs, expenses and any other amounts including any transaction taxes, goods and services taxes or any other duties or taxes (extending to include any taxes payable by the ASX CCP on a payment made under this indemnity) against or incurred by any of the ASX CCP, its officers, representatives, agents or contractors arising out of or in connection with its Default, any circumstances referred to in these Recovery Rules or any action taken by, or any inaction by, any of the ASX CCP or its officers, employees, representatives, agents or contractors under these Recovery Rules or in compliance with a direction of the Reserve Bank of Australia, Australian Securities and Investments Commission or any officer, employee, manager, representative, agent, contractor or other person appointed by, or acting on behalf of, the Reserve Bank of Australia or Australian Securities and Investments Commission.

## 12.10 Protection of third parties

No person need enquire whether any action taken under these Recovery Rules is properly or validly taken nor will a person be affected by any notice or claim that any action taken under these Recovery Rules is improper or unnecessary.

## 12.11 Survival of powers

Except to the extent that these Recovery Rules expressly provide otherwise, the rights, powers and remedies of the ASX CCP under these Recovery Rules in relation to a Participant survive the suspension or termination of the Participant's admission as a Participant, the resignation of the Participant or termination of a Participant's authorisation to clear a category or categories of Market Contract.

## 12.12 Remedies cumulative

The rights and remedies of the ASX CCP under these Recovery Rules are in addition to other rights and remedies available under the ASX CCP Rules or given by law independently of these Recovery Rules.

## 12.13 No duty

No power conferred on the ASX CCP in connection with these Recovery Rules, including any power to exercise a Recovery Power or ancillary rights, imposes any duty on the ASX CCP, any Related Body Corporate of the ASX CCP or any director, officer, employee, agent or contractor of the ASX CCP to exercise such rights or powers or to exercise such rights or powers in a particular way, and no person has any claim against the ASX CCP in relation to any decision made bona fide to exercise or refrain from exercising such powers.

## 12.14 Exemptions

The ASX CCP may, where it believes it to be just and equitable and to the extent permitted by law, and on payment of the application fee (if any) prescribed by the ASX CCP, exempt a Participant or person or class of Participant from compliance with such provisions of the Rules and on such conditions as it sees fit, including conditions relating to the payment of fees or costs in relation to the monitoring of

such exemption. The ASX CCP may, at any time, revoke such exemption, with or without providing any reason or justification (and no such reason or justification is required in respect of a revocation). A breach of a condition imposed in respect of an exemption is taken to be a breach of these Recovery Rules.

Any exemption granted to a class of Participant (but not an exemption granted to a specified Participant) is, for the purposes of the Corporations Act, taken to be an amendment to the Recovery Rules for the duration of, and in accordance with, the exemption.

## 12.15 Governing law

These Recovery Rules are to be interpreted in accordance with the laws of New South Wales.

**End of Section.**