# SECTION 12 COMPLIANCE, ENFORCEMENT ACTIONS AND APPEALS


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# SECTION 12 COMPLIANCE, ENFORCEMENT ACTIONS AND APPEALS

This Section deals with the supervision and enforcement matters including:

(a) Investigating the activities of Facility Users and the powers of ASX Settlement to obtain information, inspect records and obtain an Accountant's report at the cost of a Facility User;

(b) the circumstances when a Facility User must inform ASX Settlement of Events of Non-Compliance;

(c) the annual review of CHESS;

(d) the taking of enforcement action by ASX Settlement for a contravention of the Rules;

(e) enforcement action to suspend, terminate or impose restrictions on a participant;

(f) enforcement action for an issuer or participant's failure to pay or failure to comply with a direction; and

(g) the consolidation of investigations.

The establishment and composition of the Tribunal Panel and the Appeal Tribunal, the powers of the Tribunal and how appeal proceedings (including from sanctions imposed by ASX Settlement as part of an enforcement action) before the Appeal Tribunal are to be conducted are set out in the ASX Enforcement and Appeals Rulebook.

Disputes in relation to fees and charges that are payable under a Settlement Facilitation Service Agreement by a market licensee which is provided with a Settlement Facilitation Service under Rule 4.1A are not matters within the scope of this Section and are dealt with under the Settlement Facilitation Service Agreement.

## 12.1 MONITORING COMPLIANCE

### 12.1.1 Obtaining information

ASX Settlement may at any time investigate the activities of a Facility User. As part of any investigation, ASX Settlement may require a Facility User to do one or both of the following:

(a) to provide any information known to the Facility User; and

(b) by notice in writing, to provide or permit inspection at the offices of the Facility User or any other place notified by ASX Settlement of any Records in the custody, control or possession of the Facility User,

in connection with the performance by the Facility User of their obligations under the Rules or the Procedures. ASX Settlement may also require, by Notice in writing, that a Participant provide specified information relating to the terms and circumstances of, and

the parties to, any dealings in relevant Financial Products by clients and former clients of the Participant.

Introduced 11/03/04 Origin SCH 17.1.1, 17.1.2, SCH 17.1.3, 17.1.4, 17.2.1, 17.2.2, OCH 16.1.1

### 12.1.2 Facility User to comply

If a Facility User is required to provide information or receives a Notice under Rule 12.1.1, the Facility User must:

(a) provide the information, or provide or permit inspection of the Records in accordance with the Notice;

(b) provide assistance to ASX Settlement as ASX Settlement may reasonably require in relation to the information required or the Notice; and

(c) bear any costs incurred by the Facility User in connection with providing the information or complying with the Notice or providing assistance to ASX Settlement.

Introduced 11/03/04 Origin SCH 17.1.5, 17.2.4, OCH 16.1.2

### 12.1.3 Attendance of individuals before ASX Settlement

Without limiting the powers under Rule 12.1.1, ASX Settlement may, in connection with an investigation, require a Participant and its Employees to appear for interview before ASX Settlement to give any information required by ASX Settlement in relation to the business of the relevant Participant or to enable ASX Settlement to consider whether or not the Participant continues to comply with the Participation Requirements and whether the Participant has complied with the Participant's obligations under these Rules. A Participant must comply, and must ensure that its Employees, comply with any requirement of ASX Settlement under this Rule 12.1.3.

Introduced 11/03/04 Origin OCH 16.1.4 Amended 31/03/08

### 12.1.4 Other requirements of investigation

ASX Settlement may, in connection with any investigation, do one or more of the following:

(a) give directions about who may be present at an interview of another person;

(b) impose conditions on the attendance of a person, including in relation to appropriate undertakings as to confidentiality; and

(c) impose any other requirement which ASX Settlement considers to be reasonably necessary to preserve the integrity of the investigation.

A Participant must comply, and ensure that its Employees comply, with any requirement imposed under this Rule 12.1.4.

Introduced 11/03/04 Origin OCH 16.1.5

### 12.1.5 Provision of independent expert report or certification

ASX Settlement may by notice to a Participant require the Participant to provide a report, in a form acceptable to ASX Settlement, from a suitably qualified independent expert approved by ASX Settlement expressing an opinion as to:

(a) the performance by the Participant of its obligations (including its ability to perform its obligations in future) under the Rules;

(b) the Participant's capacity to continue to meet the requirements for admission as a Participant; and

(c) any other matter which in the opinion of ASX Settlement is necessary to assist ASX Settlement in the discharge of its functions under these Rules or as ASX Settlement otherwise considers appropriate having regard to Rule 3.2.4.

Introduced 11/03/04 Origin OCH 16.1.6 Amended 02/08/13

### 12.1.6 ASX Settlement may appoint Accountant

If a Participant fails to comply with a direction by ASX Settlement under Rule 12.1.5, ASX Settlement may appoint an Accountant to investigate the Participant and prepare a report in a form and within a time determined by ASX Settlement. The Participant must give all necessary assistance required by the Accountant to prepare the report and must at the request of the Accountant direct third parties to make available all information the Accountant requires.

Introduced 11/03/04 Origin OCH 16.1.7

### 12.1.7 Authority of Accountant appointed by ASX Settlement

An Accountant appointed by ASX Settlement under Rule 12.1.6 is taken to be the Participant's attorney for the purpose of obtaining any information or documents from third parties which in the opinion of the Accountant or ASX Settlement are necessary for the Accountant to prepare the report or further report.

Introduced 11/03/04 Origin OCH 16.1.8

### 12.1.8 Cost of Accountant

Unless ASX Settlement otherwise determines, the relevant Participant must pay the cost of the report of the Accountant prepared under this Rule 12.1.

Introduced 11/03/04 Origin OCH 16.1.9

## 12.2 AUDIT OF CLEARING ACCOUNTS

### 12.2.1 Audit of a Sponsoring Participant's Sponsorship Agreements – [Deleted]

Introduced 11/03/04 Origin SCH 17.5.1 Deleted 30/06/06

### 12.2.2 Content of Participant Audit Report – [Deleted]

Introduced 11/03/04 Origin SCH 17.5.2 Deleted 30/06/06

### 12.2.3 Audit of Clearing Accounts

ASX Settlement may conduct an audit of any Clearing Account under the control of a Participant:

(a) for the purpose of monitoring compliance with these Rules; or

(b) if an Issuer requests in writing that ASX Settlement conduct an audit of any Clearing Account under the control of a Participant and that Issuer has reason to believe that

more than 2% of the total number of a particular class of that Issuer's Financial Products are held in a Clearing Account under the control of that Participant.

Introduced 11/03/04 Origin SCH 17.6.1, 17.6.2

### 12.2.4 Notice, reporting and costs of audit of Clearing Accounts

In relation to an audit under Rule 12.2.3:

(a) before conducting the audit ASX Settlement must give to the affected Participant a Notice that is in accordance with the Procedures;

(b) ASX Settlement must report the findings of the audit to:

(i) if the audit was conducted under Rule 12.2.3(a), the Participant; or

(ii) if the audit was conducted under 12.2.3(b), the Participant and the Issuer that requested the audit.

(c) ASX Settlement may by Notice require either the Issuer or the Participant or both, to bear some or all of the costs of conducting an audit under Rule 12.2.3(b); and

(d) the Participant authorises ASX Settlement to report the findings of an audit under Rule 12.2.3(b) to the Issuer.

Introduced 11/03/04 Origin SCH 17.6.3, 17.6.4, 17.6.5

### 12.2.5 Audit of Participants

ASX Settlement may by Notice to a Participant require the Participant to provide a report from an independent auditor or other expert approved by ASX Settlement expressing an opinion as to:

(a) the performance by the Participant and any Third Party Provider of the Participant of the Participant’s obligations under the Rules;

(b) the Participant’s capacity to continue to meet the requirements for admission as a Participant under Section 4; or

(c) any other matter which in the opinion of ASX Settlement is necessary to assist ASX Settlement in the discharge of its functions under these Rules.

Introduced 11/03/04 Origin SCH 17.9.1

### 12.2.6 Audit of Issuers

ASX Settlement may by Notice to an Issuer require the Issuer to provide to ASX Settlement a report from an independent auditor or other expert approved by ASX Settlement expressing an opinion as to whether or not the Issuer and any Third Party Provider of the Issuer is performing the Issuer's obligations under the Rules.

Introduced 11/03/04 Origin SCH 17.7.1

### 12.2.7 Notice, reporting and costs of audit of Issuer's and Participant’s obligations

If ASX Settlement gives Notice to a Participant under Rule 12.2.5 or an Issuer under Rule 12.2.6 requiring that Participant or Issuer to provide a report:

(a) ASX Settlement must specify in that Notice the date and time by which the Participant or Issuer is to provide the report and that date must be a date not less than 1 month from that date that ASX Settlement gives the Notice; and

(b) the Participant or Issuer must:

(i) provide that report to ASX Settlement within the time specified in the Notice; and

(ii) bear any costs incurred by the Issuer in obtaining the report.

Introduced 11/03/04 Origin SCH 17.7.2; 17.9.2

## 12.3 ANNUAL REVIEW OF CHESS

### 12.3.1 ASX Settlement to conduct annual review

ASX Settlement must require an independent auditor to conduct an annual review of CHESS and that review must comprise the matters specified in the Procedures.

Introduced 11/03/04 Origin SCH 17.8.1

### 12.3.2 Copy of audit certificate to be provided to Facility User

If a Facility User requests that ASX Settlement provide a copy of any audit certificate arising from an annual review under Rule 12.3.1, ASX Settlement must, without charge, provide a copy of the audit certificate to that Facility User within 1 calendar month of:

(a) ASX Settlement receiving the audit certificate; or

(b) the request,

whichever is the later.

Introduced 11/03/04 Origin SCH 17.8.2

### 12.3.3 Facility User may request other review of CHESS

If a Facility User gives Notice to ASX Settlement requesting an audit certificate in relation to any review of CHESS other than an annual review under Rule 12.3.1:

(a) the Facility User must in the Notice undertake to pay the fee for that service set out in the Fees and Charges Schedule; and

(b) ASX Settlement must request an independent auditor to conduct the requested review and supply an audit certificate in relation to the review to that Facility User as soon as reasonably practicable.

Introduced 11/03/04 Origin SCH 17.8.3, 17.8.4

### 12.3.4 No other right to inspect ASX Settlement records

Except as expressly provided in these Rules, no Facility User has any right of access to, or right to inspect, ASX Settlement's Records.

Introduced 11/03/04 Origin SCH 17.8.5

### 12.3.5 Facility User to accept review by auditor

Each Facility User must accept and treat a review conducted by ASX Settlement's auditor under this Section as if that review were conducted by that Facility User's own auditor.

Introduced 11/03/04 Origin SCH 17.8.6

## 12.4 ENFORCEMENT ACTION

### 12.4.1 Enforcement action for breach of rules

If ASX Settlement considers that a Facility User has contravened the Rules or the Procedures, ASX Settlement may take any action in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Introduced 11/03/04 Origin OCH 16.2.1 Amended 31/03/08, 01/08/10

### 12.4.2 Expedited Disciplinary procedure – [Deleted]

Introduced 11/03/04 Origin SCH 18.3.1, 18.3.2, OCH 16.2.2 Amended 04/04/05 Deleted 31/03/08

### 12.4.3 Other provisions in relation to contraventions – [Deleted]

Introduced 11/03/04 Origin SCH 18.3.3, 18.3.4 Deleted 31/03/08

### 12.4.4 Facility User may elect for Disciplinary Tribunal hearing – [Deleted]

Introduced 11/03/04 Origin SCH 18.3.5 Deleted 31/03/08

### 12.4.5 Action to enforce expedited determination – [Deleted]

Introduced 11/03/04 Origin SCH 18.3.6 Deleted 31/03/08

### 12.4.6 Commencement of disciplinary proceedings – [Deleted]

Introduced 11/03/04 Origin SCH 18.4.1, 18.4.2 Deleted 31/03/08

### 12.4.7 Proceedings of Disciplinary Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.1.6, OCH 16.2.6 Deleted 31/03/08

### 12.4.8 Exercise of powers of Disciplinary Tribunal in disciplinary proceedings – [Deleted]

Introduced 11/03/04 Origin SCH 18.5.1, 18.5.2, 18.5.3. OCH 16.2.8 Deleted 31/03/08

### 12.4.9 Disciplinary Tribunal may terminate Participant in the Settlement Facility – [Deleted]

Introduced 11/03/04 Origin SCH 18.5.4 Deleted 31/03/08

## 12.5 APPEALS

### 12.5.1 Appeal from decision of ASX Settlement

If a Facility User is dissatisfied with a determination of ASX Settlement to issue an Enforcement Notice under Section 2 of the ASX Enforcement and Appeals Rulebook or any sanction imposed in the Enforcement Notice, the Facility User may appeal to the Appeal Tribunal in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Introduced 11/03/04 Origin SCH 18.7.2, 18.7.3 Amended 31/03/08, 01/08/10

### 12.5.2 Action which may be implemented pending appeal

ASX Settlement may implement and announce a decision to impose Restrictions on or suspend the participation of a Participant pursuant to Rule 12.19.1 before the expiry of the time for giving an Appeal Notice or before the appeal is determined, if ASX Settlement considers it appropriate.

Introduced 11/03/04 Origin OCH 16.5.3 Amended 31/03/08, 01/08/10

### 12.5.3 Action which may not be implemented pending appeal

ASX Settlement may not implement or announce a decision to:

(a) take enforcement action against a Facility User under Rule 2.5 of the ASX Enforcement and Appeals Rulebook,

before the expiry of the time for giving an Appeal Notice or, if an Appeal Notice is given in accordance with the ASX Enforcement and Appeals Rulebook, before the Appeal is determined.

Introduced 11/03/04 Origin OCH 16.5.4 Amended 31/03/08, 01/08/10

## 12.6 RECORD OF ACTION AND ANNOUNCEMENT – [DELETED]

### 12.6.1 Record to be made – [Deleted]

Introduced 11/03/04 Origin SCH 18.6.1, 18.6.2 Deleted 31/03/08

### 12.6.2 Action pending appeal – [Deleted]

Introduced 11/03/04 Origin OCH 16.6.2 Deleted 31/03/08

### 12.6.3 Copies of Disciplinary Register – [Deleted]

Introduced 11/03/04 Origin SCH 18.6.3, 18.6.4 Deleted 31/03/08

### 12.6.4 Announcement – [Deleted]

Introduced 11/03/04 Amended 04/04/05 Deleted 31/03/08

### 12.6.5 Disclosure – [Deleted]

Introduced 11/03/04 Origin OCH 16.6.4 Deleted 31/03/08

### 12.6.6 Disciplining of Participants – Consultation with an Approved Clearing Facility or the relevant Approved Market Operator – [Deleted]

Introduced 11/03/04 Origin SCH 18.9.1, 18.9.2 Deleted 31/03/08

## 12.7 CONSOLIDATION OF INVESTIGATIONS – RELATED BODIES CORPORATE

### 12.7.1 ASX Settlement may consolidate investigation

Subject to Rule 12.7.4, if:

(a) ASX Settlement is entitled to exercise its powers against a Facility User under Rule 12.4 in respect of particular circumstances; and

(b) a Related Body Corporate of ASX Settlement has similar powers under its operating rules and is entitled to exercise those powers against the same Facility User in respect of the same or similar circumstances,

ASX Settlement need not exercise those powers separately but may exercise those powers together with the exercise by the Related Body Corporate of its powers.

Introduced 11/03/04 Origin OCH 16.7.1

### 12.7.2 ASTC may consolidate disciplinary proceedings – [Deleted]

Introduced 11/03/04 Origin OCH 16.7.2 Deleted 31/03/08

### 12.7.3 ASTC may consolidate appeal proceedings – [Deleted]

Introduced 11/03/04 Origin OCH 16.7.3 Deleted 31/03/08

### 12.7.4 Consolidation does not affect powers

Even though the exercise of powers or hearings are consolidated under this Rule 12.7, ASX Settlement must comply with the Rules which govern those powers and hearings. The consolidation of the exercise of powers or hearings under this Rule 12.7 does not confer on ASX Settlement or on the Related Body Corporate any powers in addition to those conferred on them by these Rules or the rules of the Related Body Corporate.

Introduced 11/03/04 Origin OCH 16.7.7 Amended 31/03/08

## 12.8 CONSOLIDATION OF INVESTIGATIONS AND PROCEEDINGS – FACILITY USERS – [DELETED]

### 12.8.1 ASTC may combine proceedings – [Deleted]

Introduced 11/03/04 Origin OCH 16.8.1 Deleted 31/03/08

### 12.8.2 Right to object – [Deleted]

Introduced 11/03/04 Origin OCH 16.8.2 Deleted 31/03/08

### 12.8.3 Appeals – [Deleted]

Introduced 11/03/04 Origin OCH 16.8.3 Deleted 31/03/08

## 12.9 CORPORATIONS ACT COMPLIANCE AND CONTRAVENTIONS

### 12.9.1 Enforcement of contractual provisions

Where these Rules require a Facility User to comply with a provision of the Corporations Act (and therefore, contemplate that ASX Settlement may take action against a Facility User for a contravention of that provision):

(a) ASX Settlement may enforce that provision as if it were a Rule;

(b) any action taken or determination by ASX Settlement is not to be regarded as taking action or making a determination under the Corporations Act but rather as taking action or making a determination under the contract constituted by these Rules in relation to a contravention of the contractual term referred to in paragraph (a);

(c) ASX Settlement may take action or make a determination under this Rule 12 regardless of whether a court, the Commission or any other authority has commenced or completed any investigation, prosecution or other action in relation to the alleged contravention of that provision; and

(d) any action or determination by ASX Settlement is not affected by any previous or subsequent action or determination by any court, the Commission or any other authority in relation to an alleged contravention of that provision.

Introduced 11/03/04 Origin OCH 16.9.1 Amended 31/03/08

### 12.9.2 Interpretation

In Rule 12.9:

(a) **"taking action"** includes commencing or continuing any inquiry or investigation, holding any hearing or engaging in any procedure; and

(b) **"determination"** includes any decision of an interim nature.

Introduced 11/03/04 Origin OCH 16.9.2

## 12.10 TRIBUNAL PANEL – [DELETED]

### 12.10.1 ASTC to establish Tribunal Panel – [Deleted]

Introduced 11/03/04 Origin SCH 18.1.1, 18.1.2, 18.1.3, 18.1.4 Deleted 31/03/08

## 12.11 DISCIPLINARY TRIBUNAL – [DELETED]

### 12.11.1 Disciplinary Tribunal – [Deleted]

Introduced 11/03/04 Origin OCH 17.1.1 Deleted 31/03/08

### 12.11.2 Role of Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.2.2 Deleted 31/03/08

### 12.11.3 Chairperson and deputy chairperson – [Deleted]

Introduced 11/03/04 Origin SCH 18.2.2 Deleted 31/03/08

### 12.11.4 Composition of Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.2.3, 18.2.4 Deleted 31/03/08

### 12.11.5 Hearing date – [Deleted]

Introduced 11/03/04 Origin SCH 18.4.5, OCH 17.3.4 Deleted 31/03/08

### 12.11.6 Powers of Disciplinary Tribunal – [Deleted]

Introduced 11/03/04 Origin OCH 17.3.5 Deleted 31/03/08

### 12.11.7 Reasons for decision – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.14, OCH 17.3.6 Deleted 31/03/08

### 12.11.8 Conduct of proceedings – [Deleted]

Introduced 11/03/04 Origin SCH 18.4.7, OCH 17.3.8 Deleted 31/03/08

## 12.12 APPEAL PROCESS – [DELETED]

### 12.12.1 Notice of appeal by person other than ASTC – [Deleted]

Introduced 11/03/04 Origin SCH 18.7.4 Deleted 31/03/08

### 12.12.2 Notice of Appeal by ASTC – [Deleted]

Introduced 11/03/04 Origin SCH 18.7.4 Deleted 31/03/08

### 12.12.3 ASTC to notify relevant Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.7.5 Deleted 31/03/08

## 12.13 APPEAL TRIBUNAL – [DELETED]

### 12.13.1 Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.8.1; OCH 17.1.2 Deleted 31/03/08

### 12.13.2 Role of Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.7.6 Deleted 31/03/08

### 12.13.3 Chairperson and deputy chairperson – [Deleted]

Introduced 11/03/04 Origin OCH 17.5.2 Deleted 31/03/08

### 12.13.4 Composition of Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.1.6; 18.7.6; 18.7.7; OCH 17.5.3 Deleted 31/03/08

### 12.13.5 Hearing date – [Deleted]

Introduced 11/03/04 Origin SCH 18.7.5; 18.7.6 Deleted 31/03/08

### 12.13.6 Powers of Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.8.2 Deleted 31/03/08

### 12.13.7 Ability of the Appeal Tribunal to award costs – [Deleted]

Introduced 11/03/04 Deleted 31/03/08

### 12.13.8 Ability of the Appeal Tribunal to award costs incurred at the Disciplinary Tribunal – [Deleted]

Introduced 11/03/04 Deleted 31/03/08

### 12.13.9 Order for costs – [Deleted]

Introduced 11/03/04 Deleted 31/03/08

### 12.13.10 Reasons for decision – [Deleted]

Introduced 11/03/04 Origin OCH 17.5.7 Deleted 31/03/08

### 12.13.11 Decision final and binding – [Deleted]

Introduced 11/03/04 Origin OCH 17.5.8 Deleted 31/03/08

### 12.13.12 Conduct of proceedings – [Deleted]

Introduced 11/03/04 Origin SCH 18.8.1 Deleted 31/03/08

## 12.14 CONDUCT OF TRIBUNAL PROCEEDINGS – [DELETED]

### 12.14.1 Attendance – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.4; 18.10.5; 18.10.6 Deleted 31/03/08

### 12.14.2 Written submissions – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.7 Deleted 31/03/08

### 12.14.3 Formalities, recording and transcripts – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.8; 18.10.9 Deleted 31/03/08

### 12.14.4 Procedural fairness – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.10 Deleted 31/03/08

### 12.14.5 Voting – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.12 Deleted 31/03/08

### 12.14.6 Tribunal may obtain legal advice – [Deleted]

Introduced 11/03/04 Origin SCH 18.10.11 Deleted 31/03/08

### 12.14.7 Participation in proceedings – [Deleted]

Introduced 11/03/04 Origin OCH 17.6.7 Deleted 31/03/08

## 12.15 INDEMNITY FOR TRIBUNAL MEMBERS AND ASTC OFFICERS – [DELETED]

### 12.15.1 Limitation of liability and indemnity – [Deleted]

Introduced 11/03/04 Origin SCH 18.11.1 Deleted 31/03/08

### 12.15.2 Indemnity for certain legal proceedings – [Deleted]

Introduced 11/03/04 Origin OCH 17.7.2 Deleted 31/03/08

## 12.16 PROVISION OF INFORMATION BY ASTC TO TRIBUNAL – [DELETED]

### 12.16.1 ASTC may provide information – [Deleted]

Introduced 11/03/04 Origin OCH 17.8.1 Deleted 31/03/08

### 12.16.2 Facility User to be informed – [Deleted]

Introduced 11/03/04 Origin OCH 17.8.2 Deleted 31/03/08

## 12.17 ENFORCEMENT ACTION – ISSUER'S OR PARTICIPANT'S FAILURE TO PAY OR FAILURE TO COMPLY WITH A DIRECTION

### 12.17.1 Failure to pay amounts by an Issuer or Participant

Subject to any right of appeal, if an Issuer or Participant fails to pay:

(a) any fee or charge in accordance with the Fees and Charges Schedule (excluding any fee or charge that is payable under a Settlement Facilitation Service Agreement by a market licensee which is provided with a Settlement Facilitation Service under Rule 4.1A);

(b) any monetary penalty imposed by ASX Settlement;

(c) or amount payable under a direction given by ASX Settlement,

within 20 Business Days after the amount becomes payable:

(d) the Issuer or Participant must pay interest (at a rate determined by ASX Settlement) from the day that fee, charge, monetary penalty or amount as the case may be becomes payable;

(e) ASX Settlement may give Notice to the Approved Listing Market Operator and the Issuer of its intention to suspend ASX Settlement approval of the Issuer's Financial Products until the fee, charge or amount and interest is paid;

(f) ASX Settlement may, on giving 10 Business Days Notice of its intention to do so, suspend the participation of the Participant until the fee, charge, amount or monetary penalty and interest is paid; and

(g) if the Participant is a Clearing Participant, ASX Settlement must give 10 Business Days Notice to the Approved Clearing Facility of any intention to suspend the participation of the Participant.

If a fee, charge, monetary penalty or amount and interest remains unpaid 60 Business Days after suspension of the participation of the Participant, under this Rule 12.17.1, ASX Settlement may upon giving Notice to:

(h) the Participant;

(i) if the Participant is a Market Participant, each relevant Approved Market Operator; and

(j) if the Participant is a Clearing Participant, the Approved Clearing Facility,

terminate the participation of the Participant.

Introduced 11/03/04 Origin SCH 18.12.1, 19.9.1, 19.9.2 Amended 10/06/04, 31/03/08, 22/01/10, 01/08/10, 27/06/11, 28/12/11

### 12.17.2 Failure by Issuer to comply with other directions

If an Issuer fails to comply with any other direction of ASX Settlement or a Tribunal under this Section 12 or the ASX Enforcement and Appeals Rulebook (or of the Old Tribunal (as defined in Rule 12.23) under the Old Australian Securities Exchange Disciplinary Processes and

Appeals Rulebook (as defined in Rule 12.23)), ASX Settlement may give Notice to the Approved Listing Market Operator and the Issuer of its intention to suspend ASX Settlement approval of the Issuer's Financial Products.

Introduced 11/03/04 Origin SCH 18.12.2 Amended 10/06/04, 31/03/08, 01/08/10, 27/06/11

### 12.17.3 Suspension of ASX Settlement approval

If ASX Settlement gives Notice to an Approved Listing Market Operator and an Issuer under Rule 12.17.1(e) or 12.17.2:

(a) ASX Settlement may suspend ASX Settlement approval of the Issuer's Financial Products unless within 10 Business Days after the Notice is given, the Issuer has paid the fee, charge or amount and interest or complied with the direction, as the case requires; and

(b) otherwise ASX Settlement must give Notice to the Approved Listing Market Operator and the Issuer that it does not intend to suspend ASX Settlement approval of the Issuer's Financial Products.

Introduced 11/03/04 Origin SCH 18.12.3, 18.12.4 Amended 10/06/04, 27/06/11

### 12.17.4 Revocation of ASX Settlement approval

If:

(a) ASX Settlement suspends ASX Settlement approval of an Issuer's Financial Products under Rule 12.17.3; and

(b) 60 Business Days after the suspension, the Issuer has not paid the fee, charge or amount and interest or complied with the direction as the case requires,

ASX Settlement may, by Notice to the Issuer and the Approved Listing Market Operator, revoke ASX Settlement approval of the Issuer's Financial Products and such revocation will take effect from End of Day on the last day of the suspension.

Introduced 11/03/04 Origin SCH 18.12.5 Amended 10/06/04, 27/06/11

### 12.17.5 Appeal against revocation of ASX Settlement approval

If ASX Settlement revokes ASX Settlement approval of an Issuer's Financial Products under Rule 12.17.4 the Issuer may appeal against the revocation in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Introduced 11/03/04 Origin SCH 18.12.6 Amended 10/06/04, 31/03/08, 01/08/10

### 12.17.6 Convening the Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.12.7, 18.12.8, 18.12.9; 18.12.10 Deleted 31/03/08

### 12.17.7 Decisions of the Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 18.12.11, 18.12.12 Amended 10/06/04 Deleted 31/03/08

## 12.18 NOTICE OF NON COMPLIANCE

### 12.18.1 Notice by Participant

A Participant must give Notice of non-Compliance to ASX Settlement immediately upon the happening of any of the following Events of Non-Compliance:

(a) the Participant ceases to comply with any Participation Requirement that applies to the Participant and has not been waived under Rule 4.2.3;

(b) the Participant reasonably suspects that the Payments Provider that provides a Payment Facility for the participant will or may not authorise a net payment obligation under Section 10 of these Rules;

(c) the Participant or any of its Employees is the subject of any regulatory, disciplinary or enforcement action by any market licensee, another clearing and settlement facility, the Commission or any other regulatory authority that relates in any way to its activities as a Participant;

(d) the Participant:

(i) takes a step; or

(ii) becomes aware that another person has taken a step,

that may in any way affect the ability or entitlement of ASX Settlement to obtain payment of the relevant amount under the Performance Bond lodged by the Participant;

(e) if the Participant is a body:

(i) that body becomes a Chapter 5 body corporate as defined in section 9 of the Corporations Act;

(ii) that body reasonably suspects that it may become a Chapter 5 body corporate as defined in section 9 of the Corporations Act;

(iii) that body takes a step or becomes aware that another person has taken a step that is intended to lead to the body becoming externally administered;

(iv) someone takes control of the body's property for the benefit of the body's creditors because the body is, or is likely to become, insolvent;

*Note: this sub-Rule 12.18.1(e) is intended to cover the definition of external administration in the Payment Systems and Netting Act.*

(f) if the Participant is an individual or consists of two or more partners or trustees:

(i) the individual or partner or a trustee becomes an insolvent under administration;

(ii) the individual or partner or a trustee reasonably suspects that it may become an insolvent under administration;

(iii) the individual or a partner or a trustee takes a step or becomes aware that another person has taken a step that is intended to lead to the individual or the partner or trustee, as the case requires, becoming an insolvent under administration; or

(iv) someone takes control of the property of that individual, partner or trustee for the benefit of creditors because the individual, partner or trustee is, or is likely to become, insolvent;

*Note: this sub-Rule 12.18.1(f) is intended to cover the definition of external administration in the Payment Systems and Netting Act.*

(g) if the Payments Provider that provides a Payment Facility for the Participant becomes an externally administered body corporate or an insolvent under administration;

(h) if the Participant reasonably suspects that the Payments Provider that provides a Payment Facility for the Participant may become an externally administered body corporate or an insolvent under administration;

(i) in the case of a Participant who is a participant of an Approved Market Operator or Approved Clearing Facility, in addition to the Events of Non-Compliance in Rule 12.18.1(a),(b),(c),(d),(e),(f), (g) and (h):

(i) that Participant ceases to be a participant of the relevant Approved Market Operator or Approved Clearing Facility;

(ii) that Participant ceases to be entitled to carry on business as a participant of the relevant Approved Market Operator or Approved Clearing Facility;

(iii) that Participant is suspended from all or any of the privileges in relation to being a participant of the relevant Approved Market Operator or Approved Clearing Facility;

(iv) that Participant is prohibited from transacting any business with or through any participant of the relevant Approved Market Operator or Approved Clearing Facility on such terms and conditions as that Approved Market Operator or Approved Clearing Facility imposes;

(j) if the Participant becomes aware that it has breached any of the Rules or the Procedures and that breach is significant;

(k) the Participant suspects or becomes aware of any Employee has engaged in fraudulent conduct; or

(l) the Participant becomes aware of any other event or circumstance which adversely affects or may adversely affect its financial position or solvency or its ability to comply with the Rules or the Procedures.

Introduced 11/03/04 Origin SCH 19.1.1 Amended 30/06/06, 01/08/10, 02/08/13; 06/07/20

### 12.18.2 Notice by Approved Market Operator

An Approved Market Operator that is provided by ASX Settlement with a Settlement Facilitation Service only under Rule 4.1A must, in respect of a General Settlement Participant which is a participant of that Approved Market Operator, give Notice of Non-compliance to ASX Settlement immediately:

(a) upon the happening of any of the Events of Non-Compliance in Rule 12.18.1(i); or

(b) it becomes aware of the happening of any of the Events of Non-Compliance in Rule 12.18.1.

Introduced 11/03/04 Origin SCH 19.1.2 Amended 27/06/11, 28/12/11

### 12.18.3 Whether breach significant

For the purposes of determining whether a breach is significant for the purposes of Rule 12.18.1(j), a Participant must have regard to the following:

(a) the number or frequency of similar breaches;

(b) the impact of the breach on the Participant's ability to comply with any other Rule or Procedure or to conduct its business operations;

(c) the extent to which the breach indicates that a Participant's arrangements to ensure compliance with the Rules and Procedures is inadequate;

(d) the actual or potential financial loss to clients of the Participant, or the Participant itself, arising from the breach; and

(e) any other matters specified by ASX Settlement from time to time.

Introduced 30/06/06

## 12.19 RESTRICTION, SUSPENSION OR TERMINATION OF PARTICIPATION

### 12.19.1 ASX Settlement may suspend, terminate or impose restrictions on participation

If ASX Settlement is satisfied that:

(a) there has been an Event of Non-Compliance by a Participant; or

(b) a Payments Provider that provides a Payment Facility for a Participant has not authorised a net payment obligation under Section 10 of these Rules; or

(c) there are reasonable grounds for suspecting that a Payments Provider that provides a Payment Facility for a Participant will or may not authorise a net payment obligation under Section 10 of these Rules; or

(d) the Participant or a related entity fails to comply, or indicates that it will or may fail to comply with any rule or the procedure of, or any term of any agreement with, an Approved Market Operator or any other market operator or clearing and settlement facility; or

(e) ASX Settlement is informed by an Approved Market Operator or any other market operator or clearing and settlement facility that the Participant or a related entity is not, or may not be, complying with its obligations under the rules or the procedures of, or any terms of any agreement with, an Approved Market Operator or any other market operator or clearing and settlement facility; or

(ea) the Participant has failed to comply with a determination made by an Old Tribunal (as defined in Rule 12.23) pursuant to the Old Australia Securities Exchange Disciplinary Processes and Appeals Rulebook (as defined in Rule 12.23); or

(eb) the Participant fails to comply with any action taken by ASX Settlement in accordance with Rule 12.4.1 or the provisions of the ASX Enforcement and Appeals Rulebook (including as may be affirmed or varied by the Appeal Tribunal (as the case may be following an appeal against such action) pursuant to the ASX Enforcement and Appeals Rulebook); or

(f) the Participant or a related entity fails to comply, or indicates that it will or may fail to comply with any legislative or regulatory requirement; or

(g) ASX Settlement is informed by any other regulatory body that the Participant or a related entity is not, or may not be, complying with any legislative or regulatory requirement; or

(h) the acts, omissions or proposed conduct of a Participant may adversely affect the operation or integrity of the Settlement Facility; or

(i) in relation to AQUA Products, the Participant fails to comply with Section 18,

ASX Settlement may:

(j) impose Restrictions on;

(k) suspend; or

(l) terminate,

the participation of that Participant. The Participant must not hold itself out as a Participant during a period of suspension or if the participation of the Participant has been terminated.

Introduced 11/03/04 Origin SCH 19.2.1, OCH 16.4.1(b), Amended 01/08/10, 21/03/14, 06/07/20

### 12.19.2 Period of suspension

If ASX Settlement suspends the participation of a Participant under Rule 12.19.1, the period of suspension will be the period that ASX Settlement considers necessary or desirable. ASX Settlement may extend the period of suspension if it considers an extension is necessary or desirable.Introduced 11/03/04 Origin SCH 19.2.2, 19.2.3 Amended 06/07/20

### 12.19.3 Notice of Restriction, Suspension or Termination of Participation

If ASX Settlement:

(a) imposes Restrictions on the participation of a Participant under Rule 12.19.1; or

(b) suspends or terminates the participation of a Participant under Rule 12.19.1(k) or (l),

ASX Settlement must promptly give Notice of the Restrictions, suspension or termination, as the case requires, to:

(c) the Participant;

(d) if the Participant is a Clearing Participant, the Approved Clearing Facility;

(e) if the Participant is a Market Participant of ASX, ASX and SEGC; and

(f) if the Participant is a participant of an Approved Market Operator other than ASX, that Approved Market Operator.

Introduced 11/03/04 Origin SCH 19.3.1 Amended 27/06/11, 06/07/20

### 12.19.4 Further Notices by ASX Settlement

If a Notice is given under Rule 12.19.3:

(a) ASX Settlement may also, to the extent that it thinks reasonably necessary, give Notice of the Restrictions, suspension or termination, as the case requires, to other Participants, Issuers or Third Party Providers; and

(b) ASX Settlement may also give Notice or Publish a Notice of the Restrictions, suspension or termination, as the case requires, to the Participant Sponsored Holders ("Holders") of the Participant, informing them of their rights under Rule 12.19.10.

Introduced 11/03/04 Origin SCH 19.3.2, 19.3.3 Amended 06/07/20

### 12.19.5 Content of Notices

A Notice given under Rule 12.19.3 must contain the matters specified in the Procedures.

Introduced 11/03/04

### 12.19.6 Time for giving Notice

Subject to Rule 12.21.4, a Notice given under Rule 12.19.3 may specify that the Restrictions, suspension or termination, as the case requires, will take effect immediately upon receipt of the Notice.

ASX Settlement:

(a) may give a Notice of termination or a Notice of Restriction during a period of suspension of participation of a Participant;

(b) in a Notice of termination, must give at least 20 Business Days' Notice before the date by which CHESS Holdings under the control of the Participant must be removed from the CHESS Subregister or removed from the control of the Participant.

Introduced 11/03/04 Origin SCH 19.3.7, 19.3.8, 19.3.9 Amended 18/12/06, 06/07/20

### 12.19.7 Effects of Restriction on Participation

If ASX Settlement imposes a Restriction on the participation of a Participant, ASX Settlement must reject any Message sent by the Participant in breach of the Restriction.

Introduced 11/03/04 Origin SCH 19.4.1 Amended 06/07/20

### 12.19.8 Effects of Suspension on Participation

If ASX Settlement suspends the participation of a Participant, subject to Rules 12.19.9 and 12.19.10 and, in the case of suspension of an Instruction from Real Time Gross Settlement pursuant to Rule 12.19.8(c), subject to Section 11, ASX Settlement must:

(a) reject any Message initiated by the Participant or another Participant that refers to a CHESS Holding under the control of the suspended Participant;

(b) reject any Message initiated by the Participant to establish a new Participant Sponsored Holding;

(c) suspend from Batch Settlement or Real Time Gross Settlement, as the case may be, any Instruction that is outstanding at the time of the suspension; and

(d) cancel any Dual Entry Message Transmitted by the Participant that has not been Matched at the time of the suspension.

*Note: Refer to Rule 11.17.7 in relation to RTGS Instructions the funds transfer details of which are held in the RTGS system queue, which ASX Settlement may not be able to recall or inactivate.*

Introduced 11/03/04 Origin SCH 19.5.1 Amended 06/07/20

### 12.19.9 Action taken by ASX Settlement in its discretion

If a Participant is suspended from participation, ASX Settlement may in its discretion accept and process Messages or Instructions for the purpose of:

(a) completing transactions which are outstanding when the suspension commenced; or

(b) removing CHESS Holdings under the control of the Participant from the CHESS Subregister or from the control of that Participant.

Introduced 11/03/04 Origin SCH 19.5.2

### 12.19.10 Action by ASX Settlement if Holder requests removal

If a Participant is suspended from participation and the Holder of a CHESS Holding under the control of the Participant gives Notice to ASX Settlement requesting that the Holding be removed from the CHESS Subregister or from the control of the Participant, ASX Settlement may, upon giving Notice to the Participant of its intention to do so:

(a) Convert the CHESS Holding to a Issuer Sponsored Holding; or

(b) effect a change of Controlling Participant for the Holding,

as ASX Settlement thinks fit in the circumstances.

Introduced 11/03/04 Origin SCH 19.5.3

### 12.19.11 Action by ASX Settlement if Holder does not request removal

If a Participant is suspended from participation and the Holder of a CHESS Holding under the control of the Participant does not give Notice to ASX Settlement requesting that the Holding be removed from the CHESS Subregister or from the control of the Participant in accordance with Rule 12.19.10, ASX Settlement may:

(a) upon giving Notice to the Participant and giving Notice or Publishing a Notice on at least two occasions to the Holder of its intention to do so, nominate a Participant for the purpose of this Rule and effect a change of Controlling Participant for the Holding; or

(b) upon giving Notice or Publishing a Notice on at least two occasions to the Holder of its intention to do so, convert the CHESS Holding to an Issuer Sponsored Holding.

Introduced 11/03/04 Origin SCH 19.5.4

### 12.19.12 Removal of Suspension upon termination

If ASX Settlement gives Notice of termination to a Participant under Rule 12.19.6 during a period of suspension, the suspension is removed with effect from the effective date of termination specified in that Notice.

Introduced 11/03/04 Origin SCH 19.6.1 Amended 06/07/20

### 12.19.13 Removal of suspension or Restriction in other circumstances

If ASX Settlement is satisfied that the circumstances that gave rise to the imposition of a Restriction or a suspension no longer exist, ASX Settlement must remove the Restriction or the suspension as the case requires.

Introduced 11/03/04 Origin SCH 19.6.2

### 12.19.14 Notice of removal of suspension or restriction

If ASX Settlement or a Tribunal, as the case requires, removes a Restriction or a suspension under Rule 12.19.13 under the ASX Enforcement and Appeals Rulebook, ASX Settlement:

(a) must promptly give Notice of the removal to:

(i) the Participant;

(ii) if the Participant is a Clearing Participant, the Approved Clearing Facility;

(iii) if the Participant is a Market Participant of ASX, ASX and SEGC; and

(iv) if the Participant is a Participant of an Approved Market Operator other than ASX, that Approved Market Operator;

(b) must also give Notice or Publish a Notice on at least two occasions of the removal to each Facility User who was given Notice of the Restriction or suspension; and

(c) may give Notice or Publish a Notice on at least two occasions of the removal to other Facility Users.

Introduced 11/03/04 Origin SCH 19.6.3, 19.6.4 Amended 27/06/11, 06/07/20

## 12.20 TERMINATION OF PARTICIPATION

### 12.20.1 Effects of Termination by ASX Settlement of Participation

If ASX Settlement terminates the participation of a non-compliant Participant:

(a) subject to paragraphs (b) and (c), ASX Settlement will terminate the access of that Participant to the Settlement Facility;

(b) ASX Settlement may make such arrangements with the non-compliant Participant or with the liquidator, receiver, administrator or trustee of that Participant, as the case requires, as may be necessary or desirable to enable:

(i) outstanding transactions of the non-compliant Participant that affect a CHESS Holding under the control of that Participant to be completed; and

(ii) Holdings under the control of the non-compliant Participant to be Converted or Transferred from CHESS Holdings to Issuer Sponsored Holdings or removed from the control of the non-compliant Participant.

In making arrangements under this Rule 12.20.1(b), ASX Settlement and the non-compliant Participant must, so far as possible, take into account the wishes of the Holders of Holdings controlled by the Participant;

(c) if arrangements under paragraph (b) are not completed by the date of termination ASX Settlement may, without further Notice to the non-compliant Participant, Convert CHESS Holdings under the control of that Participant to Issuer Sponsored Holdings; and

(d) in making arrangements or exercising its powers under paragraphs (b) and (c) ASX Settlement must, so far as possible, take into account the wishes of the Holders of Holdings controlled by the Participant.

Introduced 11/03/04 Origin SCH 19.7.1, 19.7.2, 19.7.3, 19.7.4, 19.7.5

## 12.21 APPEAL AGAINST RESTRICTION, SUSPENSION OR TERMINATION OF PARTICIPATION

### 12.21.1 Appeal by non-compliant Participant [Deleted]

### 12.21.2 Convening the Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 19.8.2 Deleted 31/03/08

### 12.21.3 Decision of Appeal Tribunal – [Deleted]

Introduced 11/03/04 Origin SCH 19.8.3 Deleted 31/03/08

### 12.21.4 Deferral of ASX Settlement decision

If a non-compliant Participant may appeal a decision of ASX Settlement made under Rule 12.19.1 in accordance with the provision of the ASX Enforcement and Appeals Rulebook, then subject to Rule 12.5.2, the decision will not take effect until:

(a) if an appeal is lodged in accordance with Rule 12.21.1, the appeal is determined; or

(b) otherwise, the expiry of the time allowed for appeal.

Introduced 11/03/04 Origin SCH 19.8.4 Amended 01/08/10, 06/07/20

### 12.21.5 Partners or trustees of non-compliant Participant

If:

(a) a non-compliant Participant consists of two or more partners or trustees; and

(b) the remaining partners or trustees, as the case requires, demonstrate to the satisfaction of ASX Settlement that, notwithstanding the non-compliance of one of the partners or trustees of the Participant, the remaining partners or trustees as an entity are able to meet the Participation Requirements,

ASX Settlement may remove the restriction, condition or suspension or revoke the termination of participation of the non-compliant Participant on such terms as ASX Settlement considers reasonable in the circumstances.

Introduced 11/03/04 Origin SCH 19.8.5

## 12.22 TRANSITIONAL PROVISIONS – [DELETED]

### 12.22.1 Transitional Provisions – [Deleted]

Introduced 31/03/08 Deleted 01/08/10

### 12.22.2 Definitions – [Deleted]

Introduced 31/03/08 Deleted 01/08/10

## 12.23 TRANSITIONAL PROVISIONS

### 12.23.1 Transitional Provision Definitions

For the purpose of this Rule 12.23:

**"Commence"** means:

(a) in relation to disciplinary proceedings relating to conduct or a failure prior to the Effective Time, the provision of a contravention notice by ASX Settlement to the Facility User pursuant to Rule 2.1 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook; and

(b) in relation to appeal proceedings relating to conduct or a failure prior to the Effective Time, the provision of notice of appeal by the relevant person pursuant to Rule 3.1 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.

"**Effective Time**" means the date of commencement of Schedule 1 to the *Corporations Amendment (Financial Market Supervision) Act* 2010.

"**Old ASTC Rules**" means the ASTC Settlement Rules in force before the Effective Time.

"**Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook**" means the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook in force before the Effective Time;

"**Old Tribunal**" means the Disciplinary Tribunal or Appeal Tribunal (as the context requires) convened in accordance with the Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook, irrespective of whether it is convened before or after the Effective Time.

"**Relevant Person**" or "**Regulated Person**" means a Facility User or a person applying to ASX Settlement for admission as a Participant pursuant to Rule 4.2 of the Rules or an affected person described in Rule 10.4.9 of the Rules or a person that applied for admission of the relevant Approved Financial Products pursuant to Rule 11.1.3 of the Rules.

Introduced 01/08/10

### 12.23.2 Sanctions

Following the Effective Time:

(a) ASX Settlement will have jurisdiction pursuant to Rule 12.4.1 and the ASX Enforcement and Appeals Rulebook and may take any action under that rule or rulebook in respect of a Facility User concerning any conduct or failure under:

(i) these Rules, where that conduct or failure occurred on or after the Effective Time; or

(ii) these Rules and the Old ASTC Rules, where the relevant conduct or failure the subject of the action spans both prior to and following the Effective Time,

irrespective of when ASX Settlement became aware of, or should have become aware of, that conduct or failure;

(b) the Appeal Tribunal will have jurisdiction pursuant to the ASX Enforcement and Appeals Rulebook and may conduct appeal proceedings (including the holding of any hearings or engaging in any procedures) under those Rules in respect of a Relevant Person concerning any conduct or failure under:

(i) these Rules, where that conduct or failure occurred on or after the Effective Time; or

(ii) these Rules and the Old ASTC Rules, where the relevant conduct or failure the subject of the proceedings spans both prior to and following the Effective Time,

irrespective of when ASX Settlement became aware of, or should have become aware of, that conduct or failure;

(c) ASX Settlement will continue to have jurisdiction pursuant to Rule 12.4.1 of the Old ASTC Rules and the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook and may take disciplinary action under that rule or rulebook after the Effective Time in respect of a Regulated Person concerning any conduct under or any failure to comply with the Old ASTC Rules, where that conduct or failure occurred prior to the Effective Time, irrespective of when ASX Settlement became aware of, or should have become aware of, that conduct or failure;

(d) the Old Tribunal shall continue to have jurisdiction to conduct disciplinary proceedings (including any appeal proceedings from those disciplinary proceedings) or appeal proceedings (as the case may be) in accordance with, and pursuant to its jurisdiction under, the provisions of the Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook in respect of a Regulated Person concerning any conduct under or any failure to comply with the Old ASTC Rules, where that conduct or failure occurred prior to the Effective Time, irrespective of whether disciplinary or appeal proceedings have Commenced prior to the Effective Time or when ASX Settlement became aware of, or should have become aware of, that conduct or failure;

(e) for the purposes of paragraphs (c) and (d) above:

(i) the maximum penalty that may be imposed on a Regulated Person shall be the maximum penalty that would have been imposed for the relevant conduct or failure under the rules in existence at the time that the relevant conduct or failure occurred, irrespective of whether the disciplinary proceedings or appeal proceedings (as the case may be) were Commenced before or after the Effective Time;

(ii) ASX Settlement and the Old Tribunal shall take disciplinary action and conduct the disciplinary proceedings or appeal proceedings (as the case may

be) with due regard to the relevant rules that were in force at the time that they were alleged to be contravened;

(f) the Old ASTC Rules and the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook continue to apply in respect of the Regulated Person to the extent required to give effect to the paragraphs above;

(g) Nothing in this Rule 12.23.2 limits the continued operation of rule 12.22 of the Old ASTC Rules where disciplinary proceedings or appeal proceedings have Commenced (as defined in the Old ASTC Rules) prior to the Effective Time (as defined in the Old ASTC Rules).

Introduced 01/08/10

### 12.23.3 Conduct spanning pre and post Effective Time

For the avoidance of doubt, where the relevant conduct or failure the subject of the action or proceeding spans both prior to and following the Effective Time:

(a) ASX Settlement and the Appeal Tribunal will have the jurisdiction and may take action or conduct appeal proceedings as referred to in Rules 12.23.2(a) & (b) above;

(b) Rules 12.23.2(c), (d) and (e) do not apply to such conduct or failure.

Introduced 01/08/10

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