

# ATTACHMENT B - ASX SETTLEMENT OPERATING RULES AMENDMENTS

## SECTION 2 DEFINITIONS AND INTERPRETATION

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### 2.13 DEFINITIONS

#### 2.13.1 Definitions used in the Rules

In these Rules, unless the context otherwise requires:

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“AQUA Application Payment Batch Instruction” means a Batch Instruction scheduled by ASX Settlement in connection with a request for issue of AQUA Products.

“AQUA Payment Batch Instruction” means an AQUA Application Payment Batch Instruction or an AQUA Redemption Payment Batch Instruction.

“AQUA Redemption Payment Batch Instruction” means a Batch Instruction scheduled by ASX Settlement in connection with a request for redemption of AQUA Products.

“AQUA Product” means an Approved Financial Product that is admitted under Schedule 10A of the ASX Operating Rules, and is a Managed Fund Product (as defined in the ASX Operating Rules) which is issued by or provided pursuant to a “simple managed investment scheme” (as defined in the Corporations Regulations) in relation to which the issuer provides disclosure in the form of a shorter PDS in accordance with Part 7.9 Division 4, Subdivision 4.2C of the Corporations Regulations.

ETFs and Structured Products (as those terms are defined in the ASX Operating Rules) are not AQUA Products for the purposes of these Rules.

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“Financial Products” means:

- (a) Division 4 financial products as defined in Regulation 7.11.03 of the Corporations Regulations; ~~or~~
- (b) For the purposes of Rule 8.3.2, financial products issued under an employee incentive scheme and company issued options; or

(c) AQUA Products to be settled in accordance with Section 18.

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“Managed Fund Settlement Service” means the settlement service called mFund provided by ASX Settlement in respect of AQUA Products.

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**“Batch Instruction”** means an instruction to ASX Settlement to effect:

- (a) a Settlement Transfer in Batch Settlement and, if the instruction is for value, payment in DvP Batch Settlement; or
- (b) in respect of a Payment Batch Instruction, payment in Batch Settlement,

and includes:

- (a) a CCP Net Batch Instruction;
- (b) a CCP Gross Batch Instruction;
- (c) a CCP Derivatives Payment Batch Instruction;
- (d) a Dual Entry Batch Instruction;
- (e) a Dual Entry Payment Batch Instruction;
- (f) a Single Entry Batch Instruction; ~~and~~
- (g) a Direct Batch Instruction; and
- (h) an AQUA Payment Batch Instruction.

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**“Financial Products”** means:

- (a) Division 4 financial products as defined in Regulation 7.11.03 of the Corporations Regulations and, for the purposes of the rules relating to AQUA Products, interests in managed investment schemes that are registered under section 601EB of the Corporations Act and not quoted on the financial market operated by ASX; or
- (b) For the purposes of Rule 8.3.2, financial products issued under an employee incentive scheme and company issued options.

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**“Fund Request Cut-Off”** means, in relation to an application for issue or redemption of AQUA Products or an application to Switch between AQUA Products, on any Business Day, the time specified in the Scheduled Times.

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**“Issuer Sponsored Subregister”** means:

- (a) that part of an Issuer’s register that records uncertificated Holdings of Financial Products in accordance with Listing Rule 8.2 or, in the case of AQUA Products, Rule 5.2; or

(b) that part of a CDI Register, that is administered by the Issuer (and not ASX Settlement).

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“Participant” means an Account Participant, a Specialist Settlement Participant, ~~or~~ a General Settlement Participant or a Product Issuer Settlement Participant.

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“Payment Batch Instruction” means:

(a) a CCP Derivatives Payment Batch Instruction; or

(b) a Dual Entry Payment Batch Instruction; or

(c) an AQUA Payment Batch Instruction.

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“Product Issuer Settlement Participant” means a Participant admitted to participate in the Settlement Facility under Rule 4.4A.

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“Settlement Participant” means:

(a) a Participant that has been admitted to participate in the Settlement Facility as a General Settlement Participant; ~~or~~

(b) a person that has been admitted to participate in the Settlement Facility as a Specialist Settlement Participant; or

(c) a person that has been admitted to participate in the Settlement Facility as a Product Issuer Settlement Participant.

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“Switch” means, in respect of a Holding of AQUA Products, a process comprising the redemption by the Holder of a specified quantity of the AQUA Products followed by the investment by the Holder of the proceeds of redemption in AQUA Products of the same Product Issuer Settlement Participant.

**Purpose of Amendment:** The amendments to Section 2 are designed to introduce new terms to the ASX Settlement Operating Rules in order to facilitate the settlement of AQUA Products and make other consequential changes.

## SECTION 4 PARTICIPATION IN THE SETTLEMENT FACILITY

The purpose of this Section 4 is to set out the basis on which persons may participate in the Settlement Facility or be provided with a Transfer Service.

Without limiting in any way what a person who participates in the Settlement Facility may do or be permitted to do under these Rules, participation in the Settlement Facility is broadly divided into the following classes:

- (a) **General Settlement Participants** - being those persons who are admitted for purposes including the holding, transfer and settlement in Batch Settlement of Approved Financial Products in the Settlement Facility. A General Settlement Participant may also act in the Settlement Facility as a settlement agent on behalf of a Clearing Participant. A General Settlement Participant may also establish and maintain Participant Sponsored Holdings;
- (b) **Account Participants** – being those persons who participate in certain aspects of the holding and transfer of Approved Financial Products but who do not participate in Batch Settlement in the Settlement Facility. An Account Participant may also establish and maintain Participant Sponsored Holdings; **and**
- (c) **Specialist Settlement Participants** – being those persons who are admitted for limited purposes including acting as Offeror in relation to a takeover scheme or for processing an Allocation Component in DvP Batch Settlement; **and**
- (d) **Product Issuer Settlement Participants** – being those persons who are admitted for limited purposes including facilitating the settlement in Batch Settlement of transactions relating to requests for issue and redemption of AQUA Products. A Product Issuer Settlement Participant may not establish or maintain Participant Sponsored Holdings.

ASX Settlement may also provide a service to a market licensee for the holding, transfer and settlement of Approved Financial Products that are listed on the market of that licensee.

### 4.1 CLASSES OF PARTICIPATION IN THE SETTLEMENT FACILITY

#### 4.1.1 Settlement Participants

A Settlement Participant:

- (a) is a person who is permitted to participate in Batch Settlement and establish CHES Holdings in accordance with these Rules;
- (b) may be either:
  - (i) a person admitted as a General Settlement Participant under Rule 4.3.1; or
  - (ii) a person admitted as a Specialist Settlement Participant under Rule 4.4.1; **or**
  - (iii) a person admitted as a Product Issuer Settlement Participant under Rule 4.4A;-

- (c) is not permitted to participate in RTGS unless it is also an RTGS Participant.

*Note: A Settlement Participant must meet the additional technical and payment facility requirements of Section 11 before it will be permitted to settle transactions in Real Time Gross Settlement. Any reference in these Rules to a Settlement Participant includes a reference to a Settlement Agent. See Rule 4.3.3*

Introduced 11/03/04

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## **4.4A ADMISSION OF PRODUCT ISSUER SETTLEMENT PARTICIPANTS**

### **4.4A.1 Admission of Product Issuer Settlement Participants**

ASX Settlement will admit a person as a Product Issuer Settlement Participant if ASX Settlement is satisfied that the person;

- (a) has applied for admission as a Participant in accordance with Rule 4.2.1;
- (b) meets the technical and performance requirements of this Section;
- (c) meets the performance bond requirements of this Section;
- (d) and its Principals meet the capacity requirements of this Section;
- (e) meets the business integrity requirements of this Section;
- (f) meets the local establishment requirements of this Section; and
- (g) meets the payment facility requirements of this Section.

Note: a person admitted as a Product Issuer Settlement Participant under this Rule 4.4A.1 may not act as a Sponsoring Participant.

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## **4.13 PAYMENT FACILITY REQUIREMENTS**

### **4.13.1 Person to have a Payment Facility**

The payment facility requirements of this Section are that:

- (a) for the purposes of making and receiving payments in respect of payment obligations and entitlements under Section 10 of these Rules, the person has in place at all times at least ~~one~~ the number of Payment ~~Facility~~ Facilities specified in the Procedures with ~~one or more~~ a Payments Providers; and
- (b) each Payment Facility is either:

- (i) held in the name of, and operated for the benefit of, the person or a Related Body Corporate of the person;
- (ii) held in the name of a party unrelated to the person but operated for the benefit of the person, where the party operating the Payment Facility has agreed to be bound by the Rules which relate to the operation and suspension of Payment Facilities as if it was an ASX Settlement Participant.

Introduced 11/03/04 Origin SCH 2.12.1

**Purpose of Amendment:** The amendments to Section 4 include the introduction of the term “Product Issuer Settlement Participant” and its admission requirements.

## SECTION 6 RIGHTS AND OBLIGATIONS OF PARTICIPANTS

### 6.3 HOLDINGS UNDER A PARTICIPANT'S CONTROL

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#### 6.3.3 Holding under the control of a Participant

Subject to Rule 6.3.3A, aA Participant may only control a CHES Holding on behalf of another person if:

- (a) the Holding is designated in CHES as a Direct Holding and the person is a Related Body Corporate of the Participant; or
- (b) the Participant is a Sponsoring Participant and:
  - (i) the Holding is designated in CHES as a Participant Sponsored Holding; and
  - (ii) the Sponsoring Participant has a Sponsorship Agreement in place which complies with Section 7.

Introduced 11/03/04 Origin SCH 10.2.1A 10.2.1B

#### 6.3.3A AQUA Products under the control of a Product Issuer Settlement Participant

A Product Issuer Settlement Participant may only control a CHES Holding on behalf of another person if:

- (a) the Holding is designated in CHES as a Holding of the person who is the Issuer of the AQUA Products;
- (b) the Holding is of AQUA Products; and
- (c) the relevant quantities of the AQUA Products' underlying securities are held by the Issuer's agent prior to the creation of the AQUA Products.

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#### 6.3.5 Financial Products in a Settlement or Accumulation Holding

A Settlement Participant may not hold the same Financial Products in a Settlement Holding or an Accumulation Holding for a period greater than 3 Business Days except if, in the case of Financial Products in an Accumulation Holding:

- (a) a current sell order from a client in respect of those Financial Products remains outstanding;
- (b) where the Financial Products comprise AQUA Products, a request for redemption in respect of those Financial Products remains outstanding;

(c) the Financial Products were acquired by the Settlement Participant on the instructions of a client and that client has not paid the purchase price for those Financial Products; or

(d) each of the following apply:

- (i) the constitution of the Issuer of the Financial Products does not permit Holdings of less than a marketable parcel;
- (ii) only some of the Financial Products acquired by the Settlement Participant on the instructions of the client have been Transferred to the Settlement Participant; and
- (iii) Transfer by the Settlement Participant of those Financial Products to a Holding would contravene Rule 8.10.2.

Introduced 11/03/04 Origin SCH 9.2.4

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## **6.6 INSTRUCTIONS TO ACCESS HOLDING**

### **6.6.1 Instructions to access Holding – Controlling Participant**

A Participant must not instruct an Issuer or a Product Issuer Settlement Participant to:

- (a) Transmit a Message that initiates a Holding Adjustment or a Financial Products Transformation in relation to a Holding for which it is the Controlling Participant; or
- (b) take any other action that has the effect of deducting a number of Financial Products from, or transferring Financial Products to a Holding for which it is the Controlling Participant,

without the consent or acquiescence of the relevant Holder.

Introduced 11/03/04 Origin SCH 9.11A, 10.10A

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## **6.15 ESTABLISHING A PAYMENT FACILITY**

### **6.15.1 Payment Facilities**

A Settlement Participant must have in place at all times establish at least one the number of Payment Facility Facilities required under Rule 4.13 to facilitate settlement of Instructions and, in relation to those Payment Facilities:

- (a) the Settlement Participant must give Notice to ASX Settlement in the form prescribed by ASX Settlement from time to time;
- (b) a Payment Facility will not be available to facilitate settlement of Instructions until a Payments Provider acknowledges to ASX Settlement that it will operate the Payment Facility on behalf of the Settlement Participant;



- (c) in relation to DvP Settlement:
  - (i) each Payment Facility must be linked to at least one CHES Holding;
  - (ii) a CHES Holding must not be linked to more than one Payment Facility; and
  - (iii) a Settlement Participant which is a Clearing Participant must use the same Payment Facility to facilitate settlement of all CCP Batch Instructions. A Settlement Participant that acts for more than one Clearing Participant may use multiple Payment Facilities, but must only maintain one Payment Facility per Clearing Participant on whose behalf it acts; and
- (d) in relation to Payment Batch Instructions:
  - (i) each payment type as determined by ASX Settlement must be linked to a separate Payment Facility; and
  - (ii) unless otherwise agreed in writing by ASX Settlement, a payment type must not be linked to more than one Payment Facility.

**Purpose of Amendment:** The amendments to Section 6 relate to the new requirements relating to a Participant's Holdings and Payment Facilities.

## **SECTION 7 PARTICIPANT CLIENT ARRANGEMENTS**

### **7.1 SPONSORSHIP AGREEMENTS - GENERAL**

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#### **7.1.10 Novation of Sponsorship Agreement**

If a Controlling Participant proposes to change the Controlling Participant for a number of Holdings (for example because the Controlling Participant has transferred its business to another Participant) then ASX Settlement will accept a Notice of change of Controlling Participant under Rule 8.17, as if the change of Controlling Participant had been requested by the Participant Sponsored Holder, if:

- (a) no later than 20 Business Days before the proposed change of Controlling Participant, the Participant Sponsored Holder receives from the Controlling Participant a Notice which must incorporate the terms set out in Appendix 4 (a "Participant Change Notice"), setting out details of the proposed change of Controlling Participant and other relevant information about the reasons for the proposed change and the costs (if any) to the Holder of the proposed change;
- (b) any conditions stipulated by ASX Settlement in connection with the transfer have been met and ASX Settlement consents to the transfer;
- (c) a Holder who receives a Participant Change Notice may choose to terminate the existing Sponsorship Agreement by giving Withdrawal Instructions under these Rules to the Controlling Participant, indicating whether the Holder wishes to transfer its Holdings to another Controlling Participant or whether the Holder wishes to transfer its Holdings to the Issuer Sponsored Subregister;
- (d) the novation of the Sponsorship Agreement will not take effect until each Holder has received a Notice from the new Controlling Participant confirming that the new Controlling Participant consents to acting as the Controlling Participant for the Holder, and the Effective Date may as a result be later than the date set out in the Participant Change Notice;
- (e) a Holder will be taken to have consented to the novation by the doing of any act which is consistent with the novation of the Sponsorship Agreement to the new Controlling Participant, on or after the Effective Date, and such consent will be taken to be given as of the Effective Date;
- (f) the existing Sponsorship Agreement continues for the benefit of the existing Controlling Participant in respect of any rights and obligations accruing before the Effective Date and, to the extent that any law or provision of any agreement makes the novation not binding or effective on the Effective Date, then the Sponsorship Agreement will continue for the benefit of the existing Controlling Participant until such time as the novation is effective, and the existing Controlling Participant will hold the benefit of the Sponsorship Agreement (to the extent it relates to a Holding transferred to the new Controlling Participant) on trust for the new Controlling Participant;
- (g) nothing in this Rule will prevent the completion of CHES transactions by the existing Controlling Participant where the obligation to complete those

transactions arises before the Effective Date and the existing Sponsorship Agreement will continue to apply to the completion of those transactions, notwithstanding the novation of the Sponsorship Agreement to the new Controlling Participant under this Rule;

(h) in the event that any of the Holdings comprise AQUA Products, the new Controlling Participant is accredited in accordance with Section 18 of the Rules to facilitate the settlement of AQUA Products.

Note: Under Rule 7.4, ASX Settlement will not accept a Notice of change of Controlling Participant where the new Controlling Participant is not accredited to facilitate the transfer of AQUA Products.

Introduced 11/03/04 Amended 04/04/05, 18/12/06

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## 7.2 CONTENT OF THE SPONSORSHIP AGREEMENT

### 7.2.1 Acknowledgment by Participant Sponsored Holder

A Sponsorship Agreement must include the following acknowledgements by the Participant Sponsored Holder:

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- (f) that if a Transfer is taken to be effected by the Sponsoring Participant under Section 9 and the Source Holding for the Transfer is a Participant Sponsored Holding under the Sponsorship Agreement, then:
  - (i) the Participant Sponsored Holder may not assert or claim against ASX Settlement or the relevant Issuer that the Transfer was not effected by the Sponsoring Participant or the Sponsoring Participant was not authorised by the Participant Sponsored Holder to effect the Transfer; and
  - (ii) unless the Transfer is also taken to have been effected by a Market Participant of ASX-an Approved Market Operator or a Clearing Participant of ASX Clear, the Participant Sponsored Holder has no claim arising out of the Transfer against the compensation arrangement applicable to the Approved Market Operator or the Clearing Participant of ASX Clear under Division 3- or Division 4 of National Guarantee Fund under Part 7.5, Division 4 of the Corporations Act and Corporations Regulations; and
- (g) if the Sponsoring Participant is not a Market Participant of an Approved Market OperatorASX, that neither ASXthe Approved Market Operator, nor a Related Party of ASXthe Approved Market Operator has any responsibility for supervising or regulating the relationship between the Participant Sponsored Holder and the Sponsoring Participant, other than in relation to the Rules relating to Sponsorship Agreements.

## 7.2.2 Mandatory provisions of a Sponsorship Agreement

A Sponsorship Agreement must include provisions to the following effect:

- (a) which identify the CHESSE Holdings of the Participant Sponsored Holder to which the Sponsorship Agreement relates by specifying the HINs for those Holdings;
- (b) which identify the regulatory regime which applies to the Sponsoring Participant and the name of any regulatory authority from which information as to the status of the Sponsoring Participant can be obtained;
- (c) which identify the regulatory authority or any other body to whom the Participant Sponsored Holder may lodge a complaint against the Sponsoring Participant or any claim for compensation;
- (d) that the Sponsoring Participant is not obliged to transfer Financial Products into the Participant Sponsored Holding, where payment for those Financial Products has not been received, until payment is received;
- (e) which identify the existence, extent and circumstances in which any right of the Sponsoring Participant to exercise a power of sale in respect of a Participant Sponsored Holder's Financial Products will be exercised;
- (f) where the Sponsoring Participant claims that an amount lawfully owed to it has not been paid by the Participant Sponsored Holder, the Sponsoring Participant has the right to refuse to comply with the Participant Sponsored Holder's Withdrawal Instructions, but only to the extent necessary to retain Financial Products of the minimum value held in a Participant Sponsored Holding (where the minimum value is equal to 120% of the current value of the amount claimed);
- (g) subject to Rules 7.2.2(e) and 7.2.2(f), the Sponsoring Participant will initiate any Transfer, Conversion or an action necessary to give effect to Withdrawal Instructions within the Scheduled Time;
- (h) subject to Rule 7.4, the Sponsoring Participant will not initiate any Transfer or Conversion into or out of the Participant Sponsored Holding without the express authority of the Participant Sponsored Holder; and
- (i) which provide for, and give effect to, the novation of the Sponsorship Agreement upon a change of Controlling Participant in accordance with Rule 7.1.10.

For the purpose of Rule 7.2.2(a), where the CHESSE Holding is a new CHESSE Holding, the Sponsoring Participant must insert the HIN in the Sponsorship Agreement once the HIN has been allocated to the Participant Sponsored Holder in accordance with Rule 8.7.2.

Introduced 11/03/04 Origin SCH 9A.2.2 Amended 04/04/05, 18/12/06

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## **7.3 ACKNOWLEDGMENT AND WARRANTIES**

### **7.3.1 Benefit of the acknowledgment**

The Sponsoring Participant holds the benefit of any acknowledgment made by a Participant Sponsored Holder in accordance with Rule 7.2.1(f)(i) in trust for the benefit of ASX Settlement and the relevant Issuer.

Introduced 18/12/06 Origin SCH 9A.3.6

### **7.3.2 Warranties by Sponsoring Participants**

If a Transfer is taken to be effected by a Participant under Section 9 and the Source Holding for the Transfer is designated as a Participant Sponsored Holding of the Sponsoring Participant, then the Sponsoring Participant:

- (a) warrants to each of ASX Settlement and the relevant Issuer that there is a current Sponsorship Agreement which complies with this Rule 7.2 in relation to the Source Holding; and
- (b) indemnifies each of ASX Settlement and the Issuer against all losses, damages, costs and expenses arising from there not being a current Sponsorship Agreement which complies with this Rule 7.2 in relation to the Source Holding.

Introduced 18/12/06 Origin SCH 9A.3.7

## **7.4 AQUA PRODUCTS**

ASX Settlement will not accept a Notice of change of Controlling Participant under Rule 8.17 where Holdings to which the Notice relates comprise AQUA Products and the new Controlling Participant is not accredited in accordance with Section 18 of the Rules to facilitate the settlement of AQUA Products. In this instance, the existing Controlling Participant must convert the AQUA Product Holdings to Holdings on the Issuer Sponsored Subregister. If the existing Controlling Participant fails to convert the AQUA Product Holdings to Holdings on the Issuer Sponsored Subregister, ASX Settlement may convert the AQUA Product Holdings to Holdings on the Issuer Sponsored Subregister.

## **SECTION 8 HOLDING FINANCIAL PRODUCTS IN THE SETTLEMENT FACILITY**

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### **8.17 CHANGE OF CONTROLLING PARTICIPANT**

#### **8.17.1 Notice to be given to ASX Settlement**

If a Participant Sponsored Holder changes the Controlling Participant for its Holding, then both the Participant relinquishing control of the Holding, and the Participant assuming control of the Holding must give Notice of the change of Controlling Participant to ASX Settlement within the Scheduled Time and, after receipt of both Notices, ASX Settlement must, subject to Rule 7.4:

- (a) process all Transfers and Conversions initiated by the Participant relinquishing control prior to the change; and
- (b) execute the necessary CHESSE Subregister administration processes to give effect to the change of Controlling Participant.

**Purpose of Amendment:** The purpose of the amendments to Section 7 is to ensure that ASX Settlement is not faced with the situation in which a Controlling Participant is not accredited to facilitate the transfer or settlement of AQUA Products.

## SECTION 10 BATCH SETTLEMENT

A Settlement Participant may settle Instructions in the Settlement Facility in Batch Settlement or Real Time Gross Settlement. Batch Settlement is governed by Section 10 of these Rules. Real Time Gross Settlement is governed by Section 11.

Batch Settlement involves the settlement of Batch Instructions. Batch Instructions may be:

- (a) for value. This is known as DvP Batch Settlement. Batch Instructions that can be settled in DvP Batch Settlement are:
  - (i) CCP Batch Instructions. These consist of CCP Net Batch Instructions and CCP Gross Batch Instructions;
  - (ii) Direct Batch Instructions; and
  - (iii) Dual Entry Batch Instructions;
- (b) free of value. Batch Instructions that can be settled in Batch Settlement free of value are either:
  - (i) Dual Entry Batch Instructions; or
  - (ii) Single Entry Batch Instructions; and
- (c) for payment free of delivery. Batch Instructions that can be settled in Batch Settlement for payment free of delivery are known as Payment Batch Instructions which consist of CCP Derivatives Payment Batch Instructions, ~~and~~ Dual Entry Payment Batch Instructions and AQUA Payment Batch Instructions.

In addition to determining the eligibility of Batch Instructions to be included in DvP Batch Settlement and Batch Settlement, the purpose of this Section is to set out Rules relating to the operation of Batch Settlement in the Settlement Facility including:

- (a) the basis on which Settlement Participants can act in respect of Batch Settlement;
- (b) payment arrangements for Batch Settlement;
- (c) removal, cancellation and change of Batch Instructions;
- (d) discharge of settlement obligations;
- (e) failing Batch Instructions;
- (f) suspension or cancellation of settlement; and
- (g) settlement subject to entitlements and adjustments.

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## 10.7.2 Alternative payment arrangements

If, in the reasonable opinion of ASX Settlement, the funds transfer procedures set out in the Standard Payments Provider Deed are not available, ASX Settlement may specify alternative payment arrangements to enable payment or receipt to be made to and by Settlement Participants in relation to Batch Instructions scheduled for DvP Batch Settlement and AQUA Payment Batch Instructions scheduled for Batch Settlement.

Introduced 11/03/04 Origin SCH 7.3.1

**Purpose of Amendment:** Minor amendments to clarify the status of AQUA Payment Batch Instructions.



## SECTION 12 COMPLIANCE, ENFORCEMENT ACTIONS AND APPEALS

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### 12.19 RESTRICTION OR SUSPENSION OF PARTICIPATION

#### 12.19.1 ASX Settlement may suspend 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 for a period determined in accordance with Rule 12.19.2; 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

**Purpose of Amendment:** The amendment to Section 12 expands ASX Settlement's right to suspend or terminate the participation of a Participant to include a failure to comply with new Section 18.

## **SECTION 18 SETTLEMENT OF AQUA PRODUCTS**

This Section contains rules relating specifically to the settlement of AQUA Products including:

- (a) processing of requests for issue and redemption of AQUA Products and requests to Switch between AQUA Products;
- (b) cancellation of requests for issue or redemption or Switch;
- (c) notification of changes to settlement details for requests for issue or redemption or Switch of AQUA Products;
- (d) actions that ASX Settlement may take in the event of failure by a Product Issuer Settlement Participant to settle issues and redemptions of AQUA Products; and
- (e) the provision of distribution and re-investment advices to Holders of AQUA Products.

### **18.1 APPLICATION OF RULES TO AQUA PRODUCTS**

#### **18.1.1 Application of Section 18**

This Section 18 applies to the processing of requests for issue and redemption of AQUA Products as a class of transaction in Batch Settlement. AQUA Products must be settled in accordance with this Section 18. This Section 18 does not apply in relation to Financial Products which are not AQUA Products.

#### **18.1.2 Compliance with Rules other than Section 18**

Subject to the modifications specified in Rule 18.13, a Facility User must, in respect of AQUA Products, comply with all Rules to the extent those Rules apply to AQUA Products.

#### **18.1.3 Conflict between Rules**

If there is a conflict between a provision of this Section 18 and any other provision of these Rules, the provision of this Section 18 will prevail to the extent of the conflict.

### **18.2 SETTLEMENT PROCESS**

#### **18.2.1 Transactions**

Transactions in relation to AQUA Products which may be settled through the Settlement Facility in Batch Settlement are payments in respect of the issue or redemption of AQUA Products.

### 18.2.2 Process

Payments in respect of the issue or redemption of AQUA Products are to be settled in Batch Settlement as follows:

- (a) for issue of AQUA Products, on a 'payment then delivery' basis; and
- (b) for redemption of AQUA Products, on a 'delivery then payment' basis,

in accordance with the provisions of this Section 18 and all other applicable provisions of these Rules.

## 18.3 REQUESTS FOR ISSUE OR REDEMPTION OF AQUA PRODUCTS

### 18.3.1 Initiation of request

A Settlement Participant may initiate a request for issue or redemption of AQUA Products by Transmitting to ASX Settlement a Valid Originating Message before Fund Request Cut-Off in accordance with the Procedures. In addition to the matters specified in the Procedures the Valid Originating Message in respect of an application for issue of AQUA Products must include:

- (a) confirmation that the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) have been satisfied; and
- (b) confirmation that the Holder has received a copy of the current Product Disclosure Statement for the AQUA Products and the date of that Product Disclosure Statement.

### 18.3.2 Initiating Settlement Participant to be Controlling Participant

A Settlement Participant may only initiate a request for redemption of AQUA Products in a CHESS Holding in respect of which it is the Controlling Participant.

### 18.3.3 Product Issuer Settlement Participant to accept or reject request

If an Originating Message Transmitted to ASX Settlement complies with Rule 18.3.1:

- (a) ASX Settlement must, within the Scheduled Time, Transmit a Message to the relevant Product Issuer Settlement Participant to notify it of the details of the request specified in the Originating Message; and
- (b) the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit a Message to ASX Settlement accepting or rejecting (or, in the case of requests for redemption only, deferring) the request and specifying the information required by the Procedures.

### 18.3.4 ASX Settlement to notify Settlement Participant

If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant in accordance with Rule 18.3.3(b), ASX Settlement must Transmit a Message to the Settlement Participant that initiated the request notifying it that the application has been

accepted or rejected (or, in the case of requests for redemption only, deferred), as the case requires.

#### 18.3.5 Deemed rejection of request

If a Product Issuer Settlement Participant notified by ASX Settlement in accordance with Rule 18.3.3(a) does not Transmit a Message to ASX Settlement in accordance with Rule 18.3.3(b), ASX Settlement must Transmit a Message to the Settlement Participant that initiated the request notifying it that the request has been rejected.

#### 18.3.6 Accepted request to result in AQUA Payment Batch Instruction and Holding Adjustment

If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant in accordance with Rule 18.3.3(b) accepting a request for issue or redemption of AQUA Products:

(a) ASX Settlement must:

(i) schedule an AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction, as the case requires, for settlement in Batch Settlement on the Settlement Date specified in the Message Transmitted by the Product Issuer Settlement Participant in accordance with Rule 18.3.3(b); and

(ii) Transmit a Message to the Settlement Participant that initiated the request and the Product Issuer Settlement Participant notifying them that an AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction, as the case requires, has been scheduled for settlement; and

(b) the Product Issuer Settlement Participant must, within the Scheduled Time (or, in the case of a request for issue only, by the rescheduled date (if any) notified in accordance with Rule 18.7), Transmit to ASX Settlement a Message that initiates a Holding Adjustment to increase or decrease, by the number of AQUA Products determined by the Product Issuer Settlement Participant in respect of the request for issue or redemption, as the case requires, the Holding Balance of the CHES Holding specified in the Originating Message.

#### 18.3.7 Notifications to prospective investor clients

If a Settlement Participant receives a Message under Rules 18.3.6(a)(ii), 18.4.4(a), 18.5.1, or 18.7.2(a), it must:

(a) where the Settlement Participant is also the Trading Participant through which the request for issue or redemption of AQUA Products was initiated on behalf of the client investor, promptly communicate the relevant information to the client; or

(b) where the Settlement Participant is acting as Settlement Agent for the Trading Participant through which the request for issue or redemption of AQUA Products was initiated on behalf of the client investor, promptly communicate the relevant information to that Trading Participant.

### 18.3.8 Obligations of Participants in relation to AQUA Payment Batch Instructions

The obligation or entitlement, as the case requires, of a Settlement Participant that initiates a request for issue or redemption of AQUA Products and the Product Issuer Settlement Participant that accepts the request for issue or redemption, to pay or receive an amount in accordance with the AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction scheduled in accordance with Rule 18.3.6(a)(i), are owed to each other as principals, even if one or both of the Participants is acting on behalf of another person in relation to the instruction.

### 18.3.9 Representation by Settlement Participants

Where a Settlement Participant Transmits a Valid Originating Message to ASX Settlement under Rule 18.3.1, the Settlement Participant is taken to represent for the benefit of the relevant AQUA Product Issuer that:

- (a) where the Settlement Participant is also the Trading Participant through which the request for issue of AQUA Products was initiated on behalf of the client investor:
  - i. the Settlement Participant gave the Product Disclosure Statement and any Supplementary Product Disclosure Statement (which were at the time of giving the documents, the most current versions), to the client;
  - ii. the requirements of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) in relation to the client investor have been satisfied; and
  - iii. the Settlement Participant has complied with any other matters as set out in the Procedures,  
prior to accepting the client's instruction to initiate the request; or
- (b) where the Settlement Participant is acting as Settlement Agent for the Trading Participant through which the request for issue of AQUA Products was initiated on behalf of the client investor, the Settlement Participant has received confirmation from the Trading Participant that:
  - i. the Trading Participant gave the Product Disclosure Statement and any Supplementary Product Disclosure Statement (which were at the time of giving the documents, the most current versions), to the client;
  - ii. the requirements of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) in relation to the client investor have been satisfied; and
  - iii. the Trading Participant has complied with any other matters as set out in the Procedures,  
prior to accepting the client's instruction to initiate the request.

## **18.4 REQUESTS TO SWITCH BETWEEN AQUA PRODUCTS**

### **18.4.1 Initiation of request**

A Settlement Participant may initiate a request to Switch between AQUA Products by Transmitting to ASX Settlement a Valid Originating Message before Fund Request Cut-Off in accordance with the Procedures. In addition to the matters specified in the Procedures the Valid Originating Message must include confirmation that the Holder has received a copy of the current Product Disclosure Statement for the AQUA Products and the date of that Product Disclosure Statement.

### **18.4.2 Initiating Settlement Participant to be Controlling Participant**

A Settlement Participant may only initiate a request to Switch between AQUA Products in CHESS Holdings which are referable to the same Holder and in respect of which it is the Controlling Participant.

### **18.4.3 Product Issuer Settlement Participant to accept or reject request**

If an Originating Message Transmitted to ASX Settlement complies with Rule 18.4.1:

- (a) ASX Settlement must, within the Scheduled Time, Transmit a Message to the relevant Product Issuer Settlement Participant to notify it of the details of the request specified in the Originating Message; and
- (b) the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit a Message to ASX Settlement accepting, rejecting or deferring the request and specifying the information required by the Procedures.

### **18.4.4 ASX Settlement to notify Settlement Participant**

If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant in accordance with Rule 18.4.3(b):

- (a) ASX Settlement must Transmit a Message to the Settlement Participant that initiated the request notifying it that the request has been accepted, rejected or deferred, as the case requires; and
- (b) if the request has been accepted, the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit to ASX Settlement Messages that initiate Holding Adjustments to increase and decrease, by the number of AQUA Products determined by the Product Issuer Settlement Participant in respect of the request to Switch between AQUA Products, as the case requires, the Holding Balance of each CHESS Holding specified in the Originating Message.

### **18.4.5 Deemed rejection of request**

If a Product Issuer Settlement Participant notified by ASX Settlement in accordance with Rule 18.4.3(a) does not Transmit a Message to ASX Settlement in accordance with Rule 18.4.3(b), ASX Settlement must Transmit a Message to the Settlement Participant that initiated the request notifying it that the request has been rejected.

#### 18.4.6 Representation by Settlement Participants

Where a Settlement Participant Transmits a Valid Originating Message to ASX Settlement under Rule 18.4.1, the Settlement Participant is taken to represent for the benefit of the relevant AQUA Product Issuer that:

- (a) where the Settlement Participant is also the Trading Participant through which the request to switch between AQUA Products was initiated on behalf of the client investor:
  - i. the Settlement Participant gave the Product Disclosure Statement and any Supplementary Product Disclosure Statement for the AQUA Product that is to be issued (which were at the time of giving the documents, the most current versions), to the client; and
  - ii. the Settlement Participant has complied with any other matters as set out in the Procedures,  
\_\_\_\_\_ prior to accepting the client’s instruction to initiate the request; or
- (b) where the Settlement Participant is acting as Settlement Agent for the Trading Participant through which the request to switch between AQUA Products was initiated on behalf of the client investor, the Settlement Participant has received confirmation from the Trading Participant that:
  - i. the Trading Participant gave the Product Disclosure Statement and any Supplementary Product Disclosure Statement for the AQUA Product that is to be issued (which were at the time of giving the documents, the most current versions), to the client; and
  - ii. the Trading Participant has complied with any other matters as set out in the Procedures,  
\_\_\_\_\_ prior to accepting the client’s instruction to initiate the request.

### 18.5 CANCELLATION OF REQUESTS BY PRODUCT ISSUER SETTLEMENT PARTICIPANT

#### 18.5.1 Cancellation of accepted issue or redemption requests

If, within the Scheduled Time, a Product Issuer Settlement Participant Transmits to ASX Settlement a Valid Message that requests cancellation of a request for issue or redemption of AQUA Products that the Product Issuer Settlement Participant accepted in accordance with Rule 18.3.3(b), ASX Settlement will:

- (a) cancel and remove from Batch Settlement any unsettled AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction scheduled in accordance with Rule 18.3.6(a)(i) or rescheduled in accordance with Rule 18.7.2(b)(i) that relates to the request; and



(b) notify the Settlement Participant that initiated the request for issue or redemption of AQUA Products that the request has been cancelled and that any unsettled AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction that relates to the request has been removed from Batch Settlement.

#### **18.5.2 Cancellation of accepted request to Switch**

If, within the Scheduled Time, a Product Issuer Settlement Participant Transmits to ASX Settlement a Valid Message that requests cancellation of a request to Switch between AQUA Products that the Product Issuer Settlement Participant accepted in accordance with Rule 18.4.3(b), ASX Settlement will notify the Settlement Participant that initiated the request to Switch between AQUA Products that the request has been cancelled.

### **18.6 CANCELLATION OF REQUEST BY APPLICANT**

#### **18.6.1 Cancellation request to be accepted or rejected by Product Issuer Settlement Participant**

If, within the Scheduled Time, a Settlement Participant Transmits to ASX Settlement a Valid Message that requests cancellation of:

- (a) a request for redemption of AQUA Products; or
- (b) a request to Switch between AQUA Products,

that the Settlement Participant initiated and the Product Issuer Settlement Participant deferred in accordance with Rule 18.3.3(b) or Rule 18.4.3(b):

- (c) ASX Settlement must, within the Scheduled Time, Transmit a Message to the Product Issuer Settlement Participant to notify it of the cancellation request; and
- (d) the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit a Message to ASX Settlement accepting or rejecting the cancellation request and specifying the information required by the Procedures.

#### **18.6.2 ASX Settlement to notify Settlement Participant**

If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant in accordance with Rule 18.6.1(d), ASX Settlement must Transmit a Message to the Settlement Participant that initiated the cancellation request notifying it that the request has been accepted or rejected.

#### **18.6.3 Deemed rejection of request**

If a Product Issuer Settlement Participant notified by ASX Settlement in accordance with Rule 18.6.1(c) does not Transmit a Message to ASX Settlement in accordance with Rule 18.6.1(d), ASX Settlement must Transmit a Message to the Settlement Participant that initiated the cancellation request notifying it that the request has been rejected.

## **18.7 NOTIFICATION OF CHANGE OF ISSUE OR REDEMPTION DETAILS BY PRODUCT ISSUER SETTLEMENT PARTICIPANT**

### **18.7.1 Product Issuer Settlement Participant to notify change of details**

A Product Issuer Settlement Participant that has accepted:

- (a) a request for issue or redemption of AQUA Products in accordance with Rule 18.3.3(b); or
- (b) a request to Switch between AQUA Products in accordance with Rule 18.4.3(b),

may notify the Settlement Participant that initiated the request of changes to details of matters relating to the request, as specified in the Procedures, by Transmitting to ASX Settlement, within the Scheduled Time, a Valid Message in accordance with the Procedures.

### **18.7.2 ASX Settlement to notify applicant and reschedule payment instructions**

If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant in accordance with Rule 18.7.1, ASX Settlement must:

- (a) Transmit a Message to the Settlement Participant that initiated the request notifying it of the changed details advised by the Product Issuer Settlement Participant; and
- (b) if the Product Issuer Settlement Participant has notified a change to the Settlement Date for payment in respect of a request for issue or redemption of AQUA Products:
  - (i) reschedule the AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction, as the case requires, for settlement in Batch Settlement on the Settlement Date specified in the Message Transmitted by the Product Issuer Settlement Participant in accordance with Rule 18.7.1; and
  - (ii) Transmit a Message to the Settlement Participant that initiated the request and the Product Issuer Settlement Participant notifying them that the AQUA Application Payment Batch Instruction or AQUA Redemption Payment Batch Instruction, as the case requires, has been rescheduled.

## **18.8 FAILURE TO SETTLE**

### **18.8.1 Reminder notices – Holding Adjustment in respect of request for issue**

If a Product Issuer Settlement Participant fails to initiate a Holding Adjustment in respect of a request for issue of AQUA Products in accordance with Rule 18.3.6(b) or a request for to Switch under Rule 18.4.4(b), ASX will, on each Business Day until the Product Issuer Settlement Participant initiates a Holding Adjustment in respect of the request in accordance with Rule 18.3.6(b) or Rule 18.4.4(b), Transmit a Message to the Product Issuer Settlement Participant reminding it of its obligation to initiate a Holding Adjustment.

### 18.8.2 Fee payable for reminder notice

A Product Issuer Settlement Participant is liable to pay a fee, as specified in the Fees and Charges Schedule, in respect of each Message Transmitted to it by ASX Settlement in accordance with Rule 18.8.1.

### 18.8.3 Failure to settle – action by ASX Settlement

If a Product Issuer Settlement Participant:

- (a) reschedules in accordance with Rule 18.7:
  - (i) the date for delivery of AQUA Products to an applicant for issue of AQUA Products; or
  - (ii) the Settlement Date for payment in respect of a request for redemption of AQUA Products,  
on three or more occasions; or
- (b) fails to:
  - (i) initiate a Holding Adjustment in respect of a request for issue of AQUA Products in accordance with Rule 18.3.6(b); or
  - (ii) settle an AQUA Redemption Payment Batch Instruction in Batch Settlement when scheduled for settlement in accordance with Rule 18.3.6(a)(i) or Rule 18.7.2(b)(i),

ASX Settlement may:

- (c) impose Restrictions on;
- (d) suspend for a period; or
- (e) terminate,

the participation of the Product Issuer Settlement Participant in accordance with Rule 10.15 and Section 12 of these Rules (as applicable). ASX Settlement may, in its absolute discretion, impose Restrictions on or suspend the participation of a Product Issuer Settlement Participant generally (that is, in respect of all classes of AQUA Products in relation to which it is authorised) or in respect of one or more classes of AQUA Products in relation to which it is authorised (as specified by ASX Settlement in a Notice to the Product Issuer Settlement Participant).

### 18.8.4 Inability to process AQUA Products in Batch Settlement

If:

- (a) ASX Settlement removes one or more AQUA Products, or AQUA Payment Batch Instructions in relation to one or more AQUA Products, from Batch Settlement under Rule 10.4.7; or

(b) ASX Settlement imposes Restrictions on the participation of a Settlement Participant under Section 12,

and as a result a Settlement Participant is unable to process requests for issue of AQUA Products in Batch Settlement, the Settlement Participant must, subject to applicable law and the instructions of the person entitled to any moneys held or payable by the Settlement Participant in connection with the request for issue, immediately forward any requests and moneys to the relevant Product Issuer Settlement Participant in order that the Product Issuer Settlement Participant may process those requests.

#### 18.8.5 No interference with Transfer of AQUA Products

Issuers of AQUA Products and Product Issuer Settlement Participants must not prevent, delay or in any way interfere with the Transfer of AQUA Products.

### 18.9 DISTRIBUTION ADVICE

#### 18.9.1 Product Issuer Settlement Participant to advise details for each Holding

A Product Issuer Settlement Participant must advise, for each class of AQUA Products in relation to which it is authorised, details of:

(a) distribution entitlements in respect of each CHESS Holding of the AQUA Products; and

(b) reinvestment of distribution entitlements in respect of each CHESS Holding of the AQUA Products,

by Transmitting to ASX Settlement, within the Scheduled Time after each date for determining distribution entitlements in respect of the AQUA Products, a Valid Message that contains the details specified in the Procedures.

#### 18.9.2 ASX Settlement to notify Controlling Participant

If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant in accordance with Rule 18.9.1, ASX Settlement must Transmit a Message to the Controlling Participant for each CHESS Holding of the AQUA Products notifying it of the distribution entitlement and reinvestment details advised by the Product Issuer Settlement Participant.

### 18.10 AQUA PRODUCT HOLDING ADJUSTMENTS

#### 18.10.1 Adjusting the Holding Balance of a CHESS Holding of AQUA Products

If ASX Settlement receives from a Product Issuer Settlement Participant a Valid Message to effect a Holding Adjustment by increasing or decreasing the Holding Balance of a CHESS Holding of AQUA Products specified in the Message, ASX Settlement must:

(a) enter or deduct, as the case requires, the number of AQUA Products specified in the Message into or from that CHESS Holding; and

- (b) notify the Controlling Participant of the CHES Holding that the AQUA Products have been entered into or deducted from the Holding, as the case requires, on the instruction of the Product Issuer Settlement Participant.

#### **18.10.2 Access to Holdings of AQUA Products by Product Issuer Settlement Participant**

A Product Issuer Settlement Participant must not:

- (a) Transmit a Message that initiates a Holding Adjustment in relation to a CHES Holding of AQUA Products; or
- (b) take any other action that has the effect of deducting AQUA Products from or transferring AQUA Products to a CHES Holding,

unless it is entitled to Transmit that Message or take that action.

#### **18.10.3 Errors, Anomalies or Irregularities**

If a Product Issuer Settlement Participant becomes aware of any errors, anomalies or irregularities in relation to the record of AQUA Products, the Issuer must promptly take such action as is required to correct that error, anomaly or irregularity.

### **18.11 TECHNICAL ACCREDITATION**

#### **18.11.1 Product Issuer Settlement Participants**

A Product Issuer Settlement Participant must obtain technical accreditation to facilitate the settlement of AQUA Products in accordance with the Procedures.

#### **18.11.2 Settlement Participants**

A Settlement Participant may not establish a CHES Holding of AQUA Products unless it has obtained technical accreditation in accordance with the Procedures.

### **18.12 GENERAL**

#### **18.12.1 Participant warrants that it holds properly documented instructions**

A Settlement Participant that:

- (a) initiates a request for issue or redemption or Switch of AQUA Products; or
- (b) requests cancellation of a request for redemption or Switch of AQUA Products,

on behalf of another person:

- (c) warrants to the Issuer that the Settlement Participant holds a properly documented instruction from that other person; and
- (d) must retain and produce on request by ASX Settlement copies of such instructions.

## 18.12.2 Processing of AQUA Products in Batch Settlement

A Settlement Participant that initiates on behalf of another person a request for issue or redemption or Switch of AQUA Products is taken to have agreed with the Product Issuer Settlement Participant that it will pay application moneys to the Product Issuer Settlement Participant and receive redemption moneys from the Product Issuer Settlement Participant in Batch Settlement on behalf of that other person.

## 18.13 SPECIFIC MODIFICATIONS TO RULES

### 18.13.1 Modifications

The following Rules apply in relation to AQUA Products and Issuers of AQUA Products subject to the modifications specified below:

- (a) Rules 5.12.2 and 5.12.3 apply as if references to “Issuer’s constitution” were references to the constitution or other governing document of the registered scheme under which the AQUA Products are constituted; and
- (b) Rules 5.13.1 and 5.13.3 apply as if references to “total issued capital” for a class of Financial Products were references to the total number of issued Financial Products in a class of AQUA Products.

## 18.14 LIMITATION OF LIABILITY

### 18.14.1 ASX Settlement not in control of issue or redemption

Each Settlement Participant acknowledges that ASX Settlement does not control and cannot procure:

- (a) the issue or redemption of AQUA Products by Issuers; or
- (b) the processing of requests for issue or redemption of AQUA Products, or requests to Switch between AQUA Products, by Product Issuer Settlement Participants.

### 18.14.2 Limitation of ASX Settlement liability

ASX Settlement has no liability to:

- (a) Issuers;
- (b) Settlement Participants;
- (c) any client of a Settlement Participant that has lodged a request for issue or redemption or Switch of AQUA Products;
- (d) Holders of AQUA Products; or
- (e) any other person claiming an interest in AQUA Products,

with respect to any action or failure to take action by an Issuer, Product Issuer Settlement Participant or other Settlement Participant in connection with a request for issue or redemption or Switch of AQUA Products, including (without limitation):

(f) an Issuer's failure to issue or redeem AQUA Products or to make available redemption moneys; or

(g) failure by a Product Issuer Settlement Participant or other Settlement Participant to deliver AQUA Products or to settle an AQUA Payment Batch Instruction.

#### **18.14.3 Product Issuer Settlement Participant to indemnify ASX Settlement**

Each Issuer, Product Issuer Settlement Participant and other Settlement Participant indemnifies ASX Settlement against all expenses, losses, damages and costs that ASX Settlement may sustain or incur in connection with any action or failure to take action by the Issuer, Product Issuer Settlement Participant or other Settlement Participant, as the case requires, in connection with a request for issue or redemption or Switch of AQUA Products.

**End of Document**

**Purpose of Amendment:** Section 18 has been introduced to set out the specific rules required for the settlement of AQUA Products.

## APPENDIX 1

## SCHEDULED TIMES

<b>Rule Number</b>	<b>Requirement</b>	<b>Sydney Time</b>
<a href="#"><u>Rule 2.13.1</u></a>	<a href="#"><u>Fund Request Cut-Off</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.3.3(a)</u></a>	<a href="#"><u>If an Originating Message Transmitted to ASX Settlement complies with Rule 18.3.1, ASX Settlement must, within the Scheduled Time, Transmit a Message to the relevant Product Issuer Settlement Participant to notify it of the details of the request specified in the Originating Message.</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.3.3(b)</u></a>	<a href="#"><u>If an Originating Message Transmitted to ASX Settlement complies with Rule 18.3.1, Product Issuer Settlement Participant must, within the Scheduled Time, Transmit a Message to ASX Settlement accepting or rejecting (or, in the case of requests for redemption only, deferring) the request and specifying the information required by the Procedures.</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.3.6(b)</u></a>	<a href="#"><u>If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant under Rule 18.3.3(b) accepting a request for issue or redemption of AQUA Products, the Product Issuer Settlement Participant must, within the Scheduled Time (or, in relation to requests for issue only, within any rescheduled date notified in accordance with Rule 18.7), Transmit to ASX Settlement a Message that initiates a Holding Adjustment to increase or decrease, by the number of AQUA Products determined by the Product Issuer Settlement Participant in respect of the request for issue or redemption, as the case requires, the Holding Balance of the CHESSE Holding specified in the Originating Message.</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.4.3(a)</u></a>	<a href="#"><u>If an Originating Message Transmitted to ASX Settlement complies with Rule 18.4.1, ASX Settlement must, within the Scheduled Time, Transmit a Message to the relevant Product Issuer Settlement Participant to notify it of the details of the request specified in the Originating Message.</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.4.3(b)</u></a>	<a href="#"><u>If an Originating Message Transmitted to ASX Settlement complies with Rule 18.4.1, the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit a Message to ASX Settlement accepting, rejecting or deferring the request and specifying the information required by the Procedures.</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.4.4(b)</u></a>	<a href="#"><u>If ASX Settlement receives a Valid Message from a Product Issuer Settlement Participant under Rule 18.4.3(b), and if the request has been accepted, the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit to ASX Settlement Messages that initiate Holding Adjustments to increase or decrease, by the number of AQUA Products determined by the Product Issuer Settlement Participant in respect of the request to Switch between AQUA Products, as the case requires, the Holding Balance of each CHESSE Holding specified in the Originating Message.</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.5.1</u></a>	<a href="#"><u>Product Issuer Settlement Participant may Transmit a Valid Message that requests cancellation of a request for issue or redemption of AQUA Products that the Product Issuer Settlement Participant accepted in accordance with Rule 18.3.3(b).</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>
<a href="#"><u>Rule 18.5.2</u></a>	<a href="#"><u>A Product Issuer Settlement Participant may Transmit a Valid Message that requests cancellation of a request to Switch between AQUA Products that the Product Issuer Settlement Participant accepted in accordance with Rule 18.4.3(b).</u></a>	<a href="#"><u>As set out in the Procedures.</u></a>



<b>Rule Number</b>	<b>Requirement</b>	<b>Sydney Time</b>
<u>Rule 18.6.1</u>	<u>A Settlement Participant may Transmit a Valid Message that requests cancellation of:</u> <u>(a) a request for redemption of AQUA Products; or</u> <u>(b) a request to Switch between AQUA Products,</u> <u>that the Settlement Participant initiated and the Product Issuer</u> <u>Settlement Participant deferred in accordance with Rule 18.3.3(b).</u>	<u>As set out in the Procedures.</u>
<u>Rule 18.6.1(c)</u>	<u>If within the Scheduled Time a Settlement Participant Transmits a Valid Message that requests cancellation of:</u> <u>(a) a request for redemption of AQUA Products; or</u> <u>(b) a request to Switch between AQUA Products,</u> <u>that the Settlement Participant initiated and the Product Issuer</u> <u>Settlement Participant deferred in accordance with Rule 18.3.3(b):</u> <u>(c) ASX Settlement must, within the Scheduled Time, Transmit a Message to the Product Issuer Settlement Participant to notify it of the cancellation request.</u>	<u>As set out in the Procedures.</u>
<u>Rule 18.6.1(d)</u>	<u>If within the Scheduled Time a Settlement Participant Transmits a Valid Message that requests cancellation of:</u> <u>(a) a request for redemption of AQUA Products; or</u> <u>(b) a request to Switch between AQUA Products,</u> <u>that the Settlement Participant initiated and the Product Issuer</u> <u>Settlement Participant deferred in accordance with Rule 18.3.3(b):</u> <u>(d) the Product Issuer Settlement Participant must, within the Scheduled Time, Transmit a Message to ASX Settlement accepting or rejecting the cancellation request and specifying the information required by the Procedures.</u>	<u>As set out in the Procedures.</u>
<u>Rule 18.7.1</u>	<u>An Product Issuer Settlement Participant that has accepted:</u> <u>(a) a request for issue or redemption of AQUA Products in accordance with Rule 18.3.3(b); or</u> <u>(b) a request to Switch AQUA Products in accordance with Rule 18.4.3(b),</u> <u>may notify the Settlement Participant that initiated the request of changes to details of the matters relating to the request, as specified in the Procedures, by Transmitting, within the Scheduled Time, a Valid Message to ASX Settlement in accordance with the Procedures.</u>	<u>As set out in the Procedures.</u>

**Purpose of Amendment:** The above Scheduled Times are referred to in the suite of rule amendments for the Managed Fund Settlement Service.

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## APPENDIX 3

### Pro-Forma Participant Sponsorship Agreement

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#### 4. MANDATORY NOTIFICATIONS AND ACKNOWLEDGMENTS

- 4.1 The Participant Sponsored Holder acknowledges that if the Participant is not a Market Participant of ~~ASX~~an Approved Market Operator, neither ~~ASX~~the Approved Market Operator nor any Related Party of ~~ASX~~the Approved Market Operator has any responsibility for ~~supervising or~~ regulating the relationship between the Participant Sponsored Holder and the Participant, other than in relation to the Rules relating to Sponsorship Agreements.

.....

#### 6. CLAIMS FOR COMPENSATION

(Note:

1. *If compensation arrangements apply to the Participant Sponsored Holder, the Sponsorship Agreement must contain a term to the effect of clause 6.1. If no compensation arrangements apply, the Agreement must contain a term to the effect of clause 6.2; and*
2. *if the Sponsoring Participant is a Market Participant of an Approved Market Operator ~~ASX~~ or a Clearing Participant of ASX Clear, the Sponsorship Agreement must contain a term to the effect of clause 6.4. If the Sponsoring Participant is not a Market Participant of an Approved Market Operator ~~ASX~~ or a Clearing Participant of ASX Clear, the Agreement must contain a term to the effect of clause 6.5.)*

- 6.1 The following compensation arrangements apply to the Participant Sponsored Holder: *[set out brief details of the relevant compensation arrangements].*

[OR]

- 6.2 No compensation arrangements apply to the Participant Sponsored Holder.
- 6.3 If the Participant breaches a provision of this Agreement and the Participant Sponsored Holder makes a claim for compensation pursuant to that breach, the ability of the Participant to satisfy that claim will depend on the financial circumstances of the Participant.
- 6.4 If a breach by a Participant of a provision of this Agreement falls within the circumstances specified ~~under~~in the compensation arrangements applicable to the Approved Market Operator or the Clearing Participant of ASX Clear under the Corporations Act and Corporations Regulations, Part 7.5, Division 3 or Division 4 of the Corporations Regulations, a Participant Sponsored Holder may make a claim ~~on~~under the relevant compensation arrangements. ~~compensation arrangements applicable to the Approved Market Operator or National Guarantee Fund for compensation.~~

~~(For more information on the circumstances in which a Participant Sponsored Holder may make a claim on the National Guarantee Fund or for information on the National Guarantee Fund generally, contact the Securities Exchange Guarantee Corporation Limited).~~

[OR]

- 6.5 If the Participant breaches a provision of this Agreement, the Participant Sponsored Holder is not entitled to make a claim under the statutory compensation arrangements specified in the Corporations Act and Corporations Regulations. ~~on the National Guarantee Fund for compensation.~~

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*(For more information on the circumstances in which a Participant Sponsored Holder may make a claim on the National Guarantee Fund or for information on the National Guarantee Fund generally, contact the Securities Exchanges Guarantee Corporation Limited)*

## APPENDIX 4

### Participant Change Notice

Under Rule 7.1.10 of the ASX Settlement Operating Rules

*Capitalised expressions have the meanings given to them in the ASX Settlement Operating Rules.*

\_\_\_\_\_, the existing Controlling Participant of your Participant Sponsored Holding, gives notice under Rule 7.1.10 of the ASX Settlement Operating Rules of its intention to change the Controlling Participant for your Participant Sponsored Holding to \_\_\_\_\_, the proposed new Controlling Participant for your Participant Sponsored Holding.

You are under **no obligation to agree to a change of Controlling Participant**. You may choose to do either of the following:

- (a) **Terminate your Sponsorship Agreement by giving Withdrawal Instructions.** You may give Withdrawal Instructions under the ASX Settlement Operating Rules to the existing Controlling Participant indicating whether you wish to:
  - (i) transfer your Participant Sponsored Holding to another Controlling Participant; or
  - (ii) transfer your Participant Sponsored Holding to one or more Issuer Sponsored Holdings.

Your Sponsorship Agreement will then be terminated in accordance with Rule 7.1.11(d) of the ASX Settlement Operating Rules and your Participant Sponsored Holding will be transferred either to another Controlling Participant or to one or more Issuer Sponsored Holdings, depending on the instructions you give.

- (b) **Take no action.** If you take no action (ie, you do not take any action to terminate your Sponsorship Agreement in accordance with (1) above, and do not give any other instructions to the existing Controlling Participant which would indicate that you do not agree to the change of existing Controlling Participant) then, on \_\_\_\_\_ (the "Effective Date"), your Sponsorship Agreement will have been taken to be novated to the new Controlling Participant and will be binding on all parties as if, on the Effective Date:
  - (i) the new Controlling Participant is a party to your Sponsorship Agreement in substitution for the existing Controlling Participant;

- (ii) any rights of the existing Controlling Participant are transferred to the new Controlling Participant; and
- (iii) the existing Controlling Participant is released by you from any obligations arising on or after the Effective Date.

AQUA Products. However, if you are a holder of AQUA Products and you take no action (as per (b) above) and the new Controlling Participant is not qualified to facilitate the settlement of AQUA Products, you should note that your AQUA Products will be converted to the Issuer Sponsored Subregister.

If you take no action, you will shortly receive a Notice from \_\_\_\_\_ (the new Controlling Participant) confirming that \_\_\_\_\_ consents to acting as the new Controlling Participant for you. You will be taken to have consented to the novation by the doing of any act which is consistent with the novation of the Sponsorship Agreement to \_\_\_\_\_, on or after the Effective Date, and such consent will be taken to be given as of the Effective Date. The existing Sponsorship Agreement continues for the benefit of the existing Controlling Participant in respect of any rights and obligations accruing before the Effective Date and, to the extent that any law or provision of any agreement makes the novation not binding or effective on the Effective Date, then the Sponsorship Agreement will continue for the benefit of the existing Controlling Participant until such time as the novation is effective, and the existing Controlling Participant will hold the benefit of the Sponsorship Agreement (to the extent it relates to a Holding transferred to the new Controlling Participant) on trust for the new Controlling Participant.

[Name and contact details of existing Controlling Participant]

[date]

**Purpose of Amendment:** The amendment to Appendix 4 serves to warn AQUA Product Holders that there are circumstances where their AQUA Products could be converted to the Issuer Sponsored Subregister.