

ASTC RULE AMENDMENTS

SECTION 1

1.1.1 Purpose of the Settlement Facility

~~ASX Settlement~~ASTC is the holder of an Australian CS facility licence granted under the Corporations Act 2001 and provides a facility (the “Settlement Facility”) for the following purposes:

- (a) to enable Participants to pay money or otherwise meet settlement obligations, arising out of transactions in Financial Products or Derivatives;
- (b) to enable Issuers and Participants to record holdings of Financial Products and to take permitted action in accordance with instructions, agreements or arrangements in relation to Financial Products; and
- (c) to provide other services in accordance with these Rules.

...

1.2.1 Operating Rules of ~~ASTC~~ASX Settlement

These Rules are the operating rules of the Settlement Facility for the purposes of the Corporations Act. These Rules should be read in conjunction with:

- (a) the Procedures;
- (b) the ~~ASX Enforcement~~~~Australian Securities Exchange Disciplinary Processes~~ and Appeals Rulebook; and
- (c) the Corporations Act.

To the extent of any inconsistency between these Rules and the Procedures, these Rules will prevail.

...

1.2.5 ~~AS~~~~Australian Securities Exchange Disciplinary Enforcement Processes~~ and Appeals Rulebook

The ~~Australian Securities Exchange Disciplinary~~ ~~ASX Enforcement~~ ~~Processes~~ and Appeals Rulebook form part of these Rules where relevant for the purposes of the Corporations Act.

...

SECTION 2

2.1 GENERAL PRINCIPLES OF INTERPRETATION

In these Rules, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any regulation or statutory instrument issued under, that legislation or legislative provision;
- (b) a reference to the operating rules of an Approved Clearing Facility, the operating rules of an Approved Market Operator, the Listing Rules, the ASX Enforcement and Appeals Rulebook, these Rules, the Procedures or the Fees and Charges Schedule is a reference to the operating rules, the Listing Rules, that rulebook, these Rules, the Procedures or the Schedule as modified or amended from time to time;

...

2.7.3 Change of name of Rules

As from the Effective Time (as defined in Rule 12.23), these Rules (formerly known as the ASTC Settlement Rules) have been renamed the ASX Settlement Operating Rules.

...

2.8.1 Where amendments to Rules and Procedures are made

Unless expressly stated otherwise, where a Rule or Procedure is:

- (a) amended;
- (b) deleted; or
- (c) lapses or otherwise ceases to have effect,

that circumstance does not:

- (d) revive anything not in force or existing at the time at which that circumstance takes effect;
- (e) affect the previous operations of that Rule or Procedure or anything done under that Rule or Procedure;
- (f) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Rule or Procedure;
- (g) affect any penalty, forfeiture, suspension, expulsion or other enforcement~~disciplinary~~ action taken or incurred in respect of any contravention of that Rule or Procedure; or
- (h) affect any investigation, ~~disciplinary~~ proceeding, enforcement process, appeal process or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, suspension, expulsion or other enforcement~~disciplinary~~ action,

and any such investigation, ~~disciplinary~~ proceeding, enforcement process, appeal process or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, suspension, expulsion or ~~other disciplinary enforcement~~ action may be imposed as if the circumstance had not taken effect.

...

2.13.1 Definitions used in the Rules

...

“Appeal Tribunal” means the tribunal convened in accordance with the ASX Enforcement and Appeals Rulebook;

“Appeal” means an appeal in accordance with the provisions of the ASX Enforcement~~Australian Securities Exchange Disciplinary Processes~~ and Appeals Rulebook.

“ASTCASX Settlement” means ASX Settlement ~~and Transfer Corporation~~ Pty Ltd (ABN 49 008 504 532).

“ASX ClearACH” means ASX Clear ~~Australian Clearing House~~ Pty. Limited (ABN 48 001 314 503).

~~“Disciplinary Tribunal” means the tribunal established under Rule 12.4.~~ “ETF Financial Products” has the same meaning as ETF Securities under the operating rules of ASX ~~Market Rules~~.

“Trading Participant” has the same meaning as in the operating rules of ASX ~~Market Rules~~.

“Tribunal” means the ~~Disciplinary Tribunal or the~~ Appeal Tribunal, ~~as applicable~~.

~~“Tribunal Panel” means the panel established under Rule 12.10.1.~~

...

SECTION 3

...

3.6.11 Exclusion of ASTCASX Settlement liability provisions

Rules 1.2.3, 1.2.4, 1.2.5, 1.3.2 and 3.6.7 are subject to this Rule 3.6.11 which applies whether or not ASTCASX Settlement is negligent or in wilful default.

ASTCASX Settlement is not liable to compensate any person for loss suffered in consequence of any of the following events (whether or not ASTCASX Settlement is negligent or in wilful default):

- (a) a failure to admit a person as a Participant under Section 4, and its liability in these circumstances is limited to such liability as may be incurred in complying with the procedure for Appeal under Section 4;
- (b) a failure to provide a Transfer Service to a person under Rule 4.1A;
- (c) suspension or revocation of ASTCASX Settlement approval of any class of Financial Products;

- (d) any enforcement action, Proceeding or Appeal against a Facility User whether in accordance with these Rules or not;
- (e) any enforcement action taken by ASTCASX Settlement in accordance with a determination of the Old Tribunal (as defined in Rule 12.23) ~~Disciplinary Tribunal~~ or the Appeal Tribunal;
- (f) any action to:
 - (i) impose Restrictions on;
 - (ii) suspend; or
 - (iii) terminate,
 the participation of a Participant under Section 12;
- (g) the application or removal of a Holding Lock in accordance with Section 8; or
- (h) the effecting of a Holding Adjustment or Financial Products Transformation in accordance with Section 9.

...

3.8.2 ASTCASX Settlement may disclose information

ASTCASX Settlement will take all reasonable measures to protect from unauthorised use or disclosure information provided to it in confidence by or on behalf of a Participant pursuant to the Rules. For the purposes of this Rule the disclosure of information in the following circumstances does not constitute unauthorised use or disclosure:

- (a) pursuant to a Reciprocal Arrangement;
- (b) required to be disclosed by ASTCASX Settlement under any law or any order of any court or tribunal, authority or regulatory body;
- (c) which at the time of disclosure to or by ASTCASX Settlement, was generally available to and known by the public;
- (d) for the purposes of monitoring compliance with, or the enforcement of, the Rules or the adjudication of those matters (including, without limitation, to the Old Tribunal (as defined in Rule 12.23) ~~Disciplinary Tribunal~~ or the Appeal Tribunal);
- (e) to a related body corporate of ASTCASX Settlement, for the purpose of enabling that related body corporate to assess whether the Participant is complying with, will comply with or has complied with the operating rules of, or any contractual arrangement with, that related body corporate;
- (f) to an Approved Market Operator or Approved Clearing Facility, for the purpose of enabling the Approved Market Operator or Approved Clearing Facility to assess whether the Participant is complying with, will comply with or has complied with the Approved Market Operator's or Approved Clearing Facility's operating rules or procedures; and

- (g) to any governmental agency or regulatory authority including, without limitation, a Market Operator (including, without limitation, an Approved Market Operator), clearing house or clearing and settlement facility (in Australia or elsewhere) which requests [ASTCASX Settlement](#) to provide the information to it, in the proper exercise of its powers relating to:
 - (i) the order and good government of Participants; or
 - (ii) the efficient, honest, fair, competitive and informed trading, clearing and settlement of financial products (in Australia or elsewhere).

...

SECTION 4 PARTICIPATION IN THE SETTLEMENT FACILITY

...

4.9.7 Circumstances in which a demand may be made is not limited

[ASTCASX Settlement](#) may make a demand under a Settlement Bond under Rule 4.9.5 or a Sponsorship Bond under Rule 4.9.6 whether or not:

- (a) the Participant has been found by [an Old Tribunal \(as defined in Rule 12.23\)](#), a Tribunal or [ASTCASX Settlement](#) to be in contravention of any Rule,
- (b) the Participant has been convicted of any offence; or
- (c) the Participant's contravention of the Rule is the subject of investigation by the Commission or any other regulatory authority.

...

4.14.3 Appeal against decision of [ASTCASX Settlement](#)

An applicant may appeal against a decision to reject its application in accordance with the provisions of the [ASX Enforcement Australian Securities Exchange Disciplinary Processes](#) and Appeals Rulebook.

...

SECTION 8 HOLDING FINANCIAL PRODUCTS IN THE SETTLEMENT FACILITY

...

8.4.4 Appeal against revocation of approval

If [ASTCASX Settlement](#) revokes approval of a class of an Issuer's Financial Products under Rule 8.4.1(e) or 8.5.4, or a suspension of an Issuer's Financial Products has under Rule 8.4.1(d) continued for a period of at least 15 Business Days, the Issuer may appeal against the revocation under Rule 8.4.1(e) or 8.5.4 or impending revocation under Rule 8.5.4 respectively, in accordance with the provisions of the [ASX Enforcement Australian Securities Exchange Disciplinary Processes](#) and Appeals Rulebook.

...

SECTION 10 BATCH SETTLEMENT

10.4.9 Appeal against decisions about Batch Settlement

A Settlement Participant or an affected person may appeal against the decision of ~~ASTC~~ASX Settlement to:

- (a) not admit a class of Batch Instruction into DvP Batch Settlement; or
- (b) remove a class of Batch Instruction from Batch Settlement or DvP Batch Settlement,

in accordance with the provisions of the ~~ASX Enforcement~~Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.

...

SECTION 11 REAL TIME GROSS SETTLEMENT

11.2.1 Appeal Notices

The relevant person or any Participant (as applicable) may appeal against the decision of ~~ASTC~~ASX Settlement to:

- (a) not admit a class of Instructions into Real Time Gross Settlement; or
- (b) remove a class of Instructions from Real Time Gross Settlement,

in accordance with the provisions of the ~~ASX Enforcement~~Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.

...

SECTION 12 **SUPERVISION AND DISCIPLINARY MATTERS, COMPLIANCE, TRIBUNAL PROCEEDINGS ENFORCEMENT ACTIONS AND APPEALS**

This Section deals with the supervision and ~~enforcement~~disciplinary matters including:

- (a) Investigating the activities of Facility Users and the powers of ~~ASTC~~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 ~~ASTC~~ASX Settlement of Events of Non-Compliance;
- (c) the annual review of CHES;
- (d) the taking of ~~enforcement~~disciplinary action by ASX Settlement for a contravention of the Rules;
- (e) enforcement action ~~including the power of ASTC~~ 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, ~~the Disciplinary Tribunal~~ and the Appeal Tribunal, the powers of ~~these~~ Tribunals and how appeal proceedings (including from sanctions imposed by ASX Settlement as part of an enforcement action) before ~~the Disciplinary Tribunal and the Appeal Tribunal~~ are to be conducted are set out in the ~~ASX Australian Securities Exchange Disciplinary Enforcement Processes~~ and Appeals Rulebook.

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

...

12.4 **DISCIPLINARY ENFORCEMENT ACTION**

12.4.1 **Grounds for disciplinary eEnforcement action for breach of rules**

If ~~ASTC~~ASX Settlement considers that a Facility User has contravened the Rules or the Procedures, ~~ASTC~~ASX Settlement may take any disciplinary action in accordance with the provisions of the ~~Australian Securities Exchange Disciplinary Processes~~ ASX Enforcement and Appeals Rulebook.

...

12.5 **APPEALS**

12.5.1 **Appeal from decision of ~~Disciplinary Tribunal~~ ASX Settlement**

If a Facility User ~~or ASTC~~ is dissatisfied with a determination of ~~the Disciplinary Tribunal~~ 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 ~~or ASTC (as applicable)~~ may appeal to the Appeal Tribunal in accordance with the provisions of the ~~Australian Securities Exchange Disciplinary Processes ASX Enforcement and Appeals Rulebook~~.

12.5.2 Action which may be implemented pending appeal

~~ASTC~~ASX Settlement may implement and announce a decision to impose Restrictions on or suspend the participation of a Participant pursuant to Rule ~~12.19.12.4.1 of the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook~~ before the expiry of the time for giving an Appeal Notice or before the appeal is determined, if ~~ASX Settlement TC~~ considers it appropriate.

12.5.3 Action which may not be implemented pending appeal

~~Neither ASTC~~ASX Settlement, ~~nor the Disciplinary Tribunal~~, may not implement or announce a decision to:

- (a) ~~discipline~~take enforcement action against a Facility User under Rule ~~2.52.4.1 of the Australian Securities Exchange Disciplinary Processes ASX Enforcement and Appeals Rulebook~~, ~~or~~
- (b) ~~terminate a Participant's admission as a Participant under Rule 2.4.1 of the Australian Securities Exchange Disciplinary Processes 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.

...

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 Transfer Service Agreement by a market licensee which is provided with a Transfer Service under Rule 4.1A);
- (b) any monetary penalty~~fine~~ imposed by ~~ASTC~~ASX Settlement;
- (c) or amount payable under a direction given by ~~ASTC~~ASX Settlement,

within 20 Business Days after the amount becomes payable:

- (d) the Issuer or Participant must pay interest (at a rate determined by ~~ASTC~~ASX Settlement) from the day that fee, charge, monetary penalty~~fine~~ or amount as the case may be becomes payable;
- (e) ~~ASTC~~ASX Settlement may give Notice to the relevant Approved Market Operator and the Issuer of its intention to suspend ~~ASTC~~ASX Settlement approval of the Issuer's Financial Products until the fee, charge or amount and interest is paid;

- (f) ASTCASX 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, or a participant of an Approved Market Operator other than ASX, ASTCASX Settlement must give 10 Business Days Notice to the Approved Clearing Facility or that Approved Market Operator 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, ASTCASX Settlement may upon giving Notice to:

- (h) the Participant;
- (i) if the Participant is a Market Participant, the Approved Market Operator;
- (j) if the Participant is a Clearing Participant, the Approved Clearing Facility; and
- (k) if the Participant is a participant of an Approved Market Operator other than ASX, that Approved Market Operator,

terminate the participation of the Participant.

12.17.2 Failure by Issuer to comply with other directions

If an Issuer fails to comply with any other direction of ASTCASX Settlement or a Tribunal under this Section 12 or the ASX Enforcement~~Australian Securities Exchange Disciplinary Processes~~ 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)), ASTCASX Settlement may give Notice to the relevant Approved Market Operator and the Issuer of its intention to suspend ASTCASX Settlement approval of the Issuer's Financial Products.

...

12.17.5 Appeal against revocation of ASTCASX Settlement approval

If ASTCASX Settlement revokes ASTCASX 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~~Australian Securities Exchange Disciplinary Processes~~ and Appeals Rulebook.

...

12.18.1 Notice by Participant

A Participant must give Notice of non-Compliance to ASTCASX 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, ~~or~~ disciplinary or enforcement action by any market licensee, another clearing and settlement facility, the Commission or any other regulatory authority;

...

12.19.1 ~~ASTC~~ASX Settlement may suspend or impose restrictions on participation

If ~~ASTC~~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) ~~ASTC~~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 Australian 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) ~~ASTC~~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,

ASTGCASX Settlement may:

- (i) impose Restrictions on;
- (j) suspend for a period determined in accordance with Rule 12.19.2; or
- (k) 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.

...

12.21.1 Appeal by non-compliant Participant

A non-compliant Participant may appeal against a decision of ASTGCASX Settlement under Rule 12.19.1 unless:

- (a) the non-compliance is in respect of a prohibition or restriction imposed by a State Revenue Authority against the Participant paying stamp duty by lodgement of a periodic return;
- (b) in the case of a General Settlement Participant, the Settlement Participant no longer complies with the capacity requirements specified in Rule 4.10;
- (c) in the case of a Settlement Participant which is a Foreign Clearing House:
 - (i) the Settlement Participant no longer complies with the requirement to be appropriately authorised to provide clearing services in the foreign country in which its principal place of business is located; or
 - (ii) any necessary regulatory approval granted to the Settlement Participant to allow the Settlement Participant to provide services as a Participant have been withdrawn,

in accordance with the provisions of the ASX Enforcement Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.

...

12.21.4 Deferral of ASTGCASX Settlement decision

If a non-compliant Participant may appeal a decision of ASTGCASX Settlement made under Rule 12.19.1, 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.

...

12.22 TRANSITIONAL PROVISIONS ~~[DELETED]~~

~~12.22.1 Transitional Provisions~~

~~Following the Effective Time:~~

- ~~(a) — the Disciplinary Tribunal and Appeal Tribunal will have jurisdiction pursuant to the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook and may Commence disciplinary proceedings or appeal proceedings under those Rules (including the holding of any hearings or engaging in any procedures) after the Effective Time in respect of a Regulated Person concerning any conduct under or any failure to comply with, the Rules, irrespective of whether that conduct or failure occurred before or after the Effective Time or when ASTC became aware of, or should have become aware of, that conduct or failure;~~
- ~~(b) — where disciplinary proceedings or appeal proceedings (including the holding of any hearings or engaging in any procedures) have Commenced prior to the Effective Time in respect of a Regulated Person concerning any conduct under, or any failure to comply with, the Operating Rules, the relevant Old Tribunal shall continue to conduct the relevant 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 ASTC Rules;~~
- ~~(c) — 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 under the Rules in existence at the time that the relevant conduct occurred, irrespective of whether the disciplinary proceedings or appeal proceedings (as the case may be) were Commenced before or after the Effective Time or whether the disciplinary proceedings or appeal proceedings (as the case may be) were conducted by an Old Tribunal pursuant to the Old ASTC Rules or the Disciplinary Tribunal or Appeal Tribunal (as the case may be) pursuant to the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook;~~
- ~~(d) — the Old Tribunal pursuant to the Old ASTC Rules and the Disciplinary Tribunal and Appeal Tribunal pursuant to the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook shall 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; and~~
- ~~(e) — Old ASTC Rules continue to apply in respect of the Regulated Person to the extent required to give effect to the paragraphs above.~~

~~Introduced 31/03/08~~

~~12.22.2 Definitions~~

~~For the purposes of this Rule 12.22 the following definitions apply:~~

~~“Commence” means:~~

- ~~(a) — in relation to disciplinary proceedings prior to the Effective Time, the provision of a Contravention Notice by ASTC to a Facility User pursuant to Rule 12.4.6 of the Old ASTC Rules;~~

- ~~(b) in relation to disciplinary proceedings following the Effective Time, the provision of a notice by ASTC to a Facility User pursuant to Rule 2.1 of the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook;~~
- ~~(c) in relation to appeal proceedings prior to the Effective Time, the provision of an Appeal Notice by a Regulated Person or ASTC pursuant to Rules 8.4.4, 10.4.9, 11.2, 12.5, 12.17.5, 12.21.1 or 16.5.1 of the Old ASTC Rules; and~~
- ~~(d) in relation to appeal proceedings following the Effective Time, the provision of a notice of appeal by the relevant person pursuant to Rule 3.1 of the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.~~

~~“Effective Time” means the date set out in the Procedures to the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook;~~

~~“Old ASTC Rules” means the ASTC Settlement Rules which were in force immediately before the Effective Time;~~

~~“Old Tribunal” means the Disciplinary Tribunal or Appeal Tribunal (as the context requires) in existence immediately before the Effective Time; and~~

~~“Regulated Person” means a Facility User or a person applying to ASTC 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 31/03/08~~

12.23 TRANSITIONAL PROVISIONS

12.23.1 Transitional Provision Definitions

For the purposes 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.

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).

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.

...

SECTION 16 COMMUNICATIONS WITH ASTCASX Settlement

16.5.1 Facility user may Appeal

If ASTCASX Settlement suspends processing of Messages or classes of Messages between ASTCASX Settlement and a Facility User under Rule 16.3(e), the Facility User may appeal against the suspension in accordance with the provisions of the ASX Enforcement~~Australian Securities Exchange Disciplinary Processes~~ and Appeals Rulebook.

...