

Chapter 10

Transactions with persons in a position of influence

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Explanatory note

This chapter deals with transactions between an entity (including its +child entities) and persons in a position to influence the entity. Transactions covered by this chapter include +acquiring and +disposing of substantial assets by the entity, and +acquiring +securities in the entity.

The chapter also deals with participation by directors (and persons associated with directors) in +employee incentive schemes and in underwriting +dividend or distribution plans, payments to directors and termination benefits.

Acquisition and disposal of assets

Approval required for certain acquisitions or disposals

10.1 An entity (in the case of a trust, the responsible entity) must ensure that neither it, nor any of its +child entities, +acquires a substantial asset from, or +disposes of a substantial asset to, any of the following +persons without the approval of holders of the entity's +ordinary securities.

10.1.1 A +related party of the entity.

10.1.2 A +child entity of the entity.

10.1.3 A +substantial holder in the entity, if the person and the person's +associates have a relevant interest, or had a relevant interest at any time in the 6 months before the transaction, in at least 10% of the total votes attached to the voting +securities in the entity.

10.1.4 An +associate of a +person referred to in rules 10.1.1 to 10.1.3.

10.1.5 A +person whose relationship to the entity or a +person referred to in rules 10.1.1 to 10.1.4 is such that, in ASX's opinion, the transaction should be approved by +security holders.

If an entity breaks this rule, ASX may require it to take the corrective action set out in rule 10.9.

Introduced 01/07/96 Origin: Listing Rules 3J(3)(a), (b) Amended 01/07/98, 13/03/00, 30/09/01, 01/07/14

Cross reference: Rule 10.7 deals with classified assets. Rule 10.8 deals with getting ASX's opinion about the application of rule 10.1. Rule 10.9 deals with corrective action. This remedy is in addition to any other that ASX has for a breach of the listing rules.

What is a substantial asset?

10.2 An asset is substantial if its value, or the value of the consideration for it is, or in ASX's opinion is, 5% or more of the +equity interests of the entity as set out in the latest +accounts given to ASX under the listing rules.

Introduced 01/07/96 Origin: Listing Rules 3J(3)(a), (b) Amended 01/07/00

Note: The entity's equity interests are consolidated equity interests, if applicable.

Cross reference: chapter 4, which deals with periodic disclosure and rule 19.11A.

10.2.1 In calculating the value, each of the following rules applies.

- Intangibles will be included.
- Provisions for depreciation and amortisation will be deducted.
- Liabilities acquired as part of an +acquisition will not be deducted.
- Separate transactions will be aggregated if, in ASX's opinion, they form part of the same commercial transaction.

Exceptions to rule 10.1

10.3 Rule 10.1 does not apply to any of the following.

- A transaction between the entity and a wholly owned subsidiary.
- A transaction between wholly owned subsidiaries of the entity.
- An issue of +securities by the entity for cash.
- In the case of a trust, a transaction involving a substantial asset that was not beneficially held for the trust before the transaction and is not beneficially held for the trust after the transaction.
- A transaction between the entity and a person who is a related party by reason only of the transaction and the application to it of section 228(6).

Introduced 01/07/97 Origin: Listing Rules 3J(3)(h) Amended 13/03/00

Note: As at 13/03/00, section 228(6) of the Corporations Act says that a person is a related party if the entity believes, or has reasonable grounds to believe, that the person is likely to become a related party.

Application of rule 10.1 to put and call options

Consideration paid for an option

10.4 In the case of an +acquisition or +disposal by the grant or exercise of an option, the consideration for the +acquisition or +disposal is the total of the issue price of the option and its exercise price.

Introduced 01/07/96 Origin: Listing Rule 3J(3)(c)(i)

Approval before getting an option

10.5 An entity must obtain the approval of holders of its +ordinary securities before the option is issued, or the issue must be subject to that approval. If the option is issued subject to approval, that approval must be obtained as soon as practicable after the option is issued.

Introduced 01/07/96 Origin: Listing Rule 3J(3)(c)(i) Amended 01/07/97

Approval before exercising an option

10.6 An entity must obtain the approval of holders of its +ordinary securities before the option is exercised. If approval has been given in accordance with rule 10.5, further approval is not required at the time of exercise.

Introduced 01/07/96 Origin: Listing Rule 3J(3)(c)(i)

Example: When issued, the issue price and exercise price of the option did not exceed 5% of equity interests. Approval is not required. At the time of exercise, the issue price and exercise price of the option does exceed 5% of equity interests. Approval is then required before the option is exercised.

Classified assets

- 10.7 If an +acquisition to which rule 10.1 applies is of a +classified asset, the consideration must be +restricted securities. This requirement does not apply if the consideration is reimbursement of expenditure incurred in developing the +classified asset.

Introduced 01/07/96 Origin: Listing Rules 3J(37), 3J(3)(e)

Note: If restricted securities are issued as consideration for the acquisition or disposal the entity must comply with Chapter 9.

Cross reference: Appendix 9B.

Entity may consult ASX on the application of rule 10.1

- 10.8 Before +acquiring or +disposing of an asset, an entity may seek the written opinion of ASX on whether approval is required under rule 10.1. The entity must give ASX complete details of the transaction. ASX will only be bound by its written opinion if the details given to it remain materially unchanged at the time of the transaction.

- 10.8.1 If an entity does not have a written opinion from ASX that approval is not required under rule 10.1, ASX may require the entity to take the corrective action set out in rule 10.9.

Introduced 01/07/96 Origin: Listing Rules 3J(3)(g)(i), 3J(3)(g)(ii)

Note: This rule allows an entity to ensure that it does not breach rule 10.1 and will not be required to take the corrective action set out in rule 10.9.

Corrective action

- 10.9 An entity must take corrective action if ASX requires it to. The corrective action, at the option of the entity, is either of the following.

- 10.9.1 Cancelling the transaction (or arranging for its cancellation).

- 10.9.2 Seeking the approval of holders of +ordinary securities to the transaction. If approval is not obtained, the entity must cancel the transaction (or arrange for its cancellation).

Introduced 01/07/96 Origin: Listing Rule 3J(3)(g)(ii)

Requirements for the notice of meeting under rules 10.1 or 10.9

- 10.10 The notice of meeting under rule 10.1 or 10.9.2 must include each of the following.

- 10.10.1 A +voting exclusion statement.

Introduced 01/07/96 Origin: Listing Rule 3J(3)(d)

- 10.10.2 A report on the transaction from an independent expert. The report must state the expert's opinion as to whether the transaction is fair and reasonable to holders of the entity's +ordinary securities whose votes are not to be disregarded. The expert's opinion as to whether the transaction is fair and reasonable must be displayed prominently in the notice of meeting and on the covering page of any accompanying documents.

Introduced 01/07/96 Origin: Listing Rule 3J(3)(c)(ii) Amended 01/06/12

10.10A

10.10A.1 The report on the transaction from an independent expert must be given individually to each holder of the entity's ordinary securities using the same method as that used to give notice of the meeting.

Introduced 01/06/12

10.10A.2 Provided the report on the transaction from an independent expert and notice of meeting have both been given to the holders of the entity's securities, the report on the transaction from an independent expert is taken to have been given to the holder of the entity's ordinary securities at the same time that the notice of meeting is taken to have been given to the holder of its ordinary securities.

Introduced 01/06/12

10.10A.3 Regardless of the method used to distribute the report on the transaction from an independent expert, the entity must:

- a) ensure that the report on the transaction by an independent expert is easily accessible on the entity's website;
- b) ensure that the address of the entity's website is provided to the holders of ordinary securities; and
- c) if requested by a holder of ordinary securities, send to the holder a hard copy of the report on the transaction from an independent expert, at no cost to the holder, and ensure holders are notified of this option in the notice of meeting.

Introduced 01/06/12

Cross reference: Listing Rule 15.1.7. Independent expert reports on a transaction must be given to ASX under Chapter 15 of the Listing Rules.

Acquisition of securities in the entity

Approval required for an issue of securities

10.11 Unless one of the exceptions in rule 10.12 applies, an entity must not issue or agree to issue *equity securities to any of the following *persons without the approval of holders of *ordinary securities.

10.11.1 A *related party.

10.11.2 A *person whose relationship with the entity or a *related party is, in ASX's opinion, such that approval should be obtained.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a), 3E(8)(a)c Amended 01/07/00, 30/09/01

Exceptions to rule 10.11

10.12 The exceptions referred to in rule 10.11 are as follows.

Exception 1 The *person receives the *securities under a *pro rata issue.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)

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

Exception 1 only applies to securities taken up as part of a pro rata issue. It does not apply to a person taking up all or part of the shortfall of a pro rata issue. For example, a director who has taken up their entitlement in a pro rata issue cannot take up shortfall securities under this exception, even if the shortfall is allocated on a pro rata basis to those participating in the shortfall.

Exception 2 The *person receives the *securities under an underwriting agreement in relation to a *pro rata issue, provided that the *person receives the

+securities not later than 15 +business days after close of the offer and the terms of the underwriting were included in offer documents sent to holders of +ordinary securities.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)b Amended 02/11/15

Note: Exception 2 only applies to the issue to an underwriter under an underwriting agreement of the securities comprising the shortfall from a pro rata issue to holders of ordinary securities. It does not apply to any other issue of securities to the underwriter under an underwriting agreement (for example, in payment of an underwriting fee or other amount due under an underwriting agreement).

Exception 3

The +person receives the +securities under a +dividend or distribution plan. Exception 3 is only available where the +dividend or distribution plan does not impose a limit on participation.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)e., 3E(8)(b)(ii) Amended 11/03/02, 31/03/04

Note: Exception 3 only applies where there is no limit on participation under the dividend or distribution plan and security holders are able to elect to receive all of their dividend or distribution as securities. For example, Exception 3 would not apply in the following circumstances:

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

Cross reference: rule 10.16.

Exception 4

An issue of +securities under an +employee incentive scheme made with the approval of holders of +ordinary securities under rule 10.14.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)d Amended 01/07/14

Exception 4A

A grant of options or other rights to acquire +securities under an +employee incentive scheme, where the +securities to be acquired on the exercise of the options or in satisfaction of the rights are required by the +terms of the scheme to be purchased on-market (as referred to in rule 10.15B).

Introduced 01/07/14

Note: Exception 4A does not apply to on-market purchases of securities of the type referred to in the first limb of listing rule 10.15B. Such purchases do not involve an issue of shares. They therefore are not caught by listing rule 10.11 and no exception to that rule is needed in relation to them.

Exception 5

The +person receives the +securities under an off-market bid that was required to comply with the Corporations Act, or as part of a merger by way of scheme of arrangement under Part 5.1 of the Corporations Act.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)f Amended 01/07/97, 13/03/00, 30/09/01

Exception 6

The +person is a +related party by reason only of the transaction which is the reason for the issue of the +securities and the application to it of section 228(6).

Introduced 01/07/97 Amended 13/03/00, 30/09/01

Note: At 13/03/00, section 228(6) of the Corporations Act says that a person is a related party if the entity believes, or has reasonable grounds to believe, that the person is likely to become a related party.

Exception 7

The +person receives the +securities on the +conversion of +convertible securities. The entity must have issued the +convertible securities before it was listed or complied with the listing rules when it issued the +convertible securities.

Introduced 01/07/98

Note: The definition of convertible securities includes options.

- Exception 8* An issue of +securities under a +security purchase plan, excluding an issue to the plan's underwriters. Exception 8 is only available once in any 12 month period and both of the following must apply:
- The number of +securities to be issued is not greater than 30% of the number of fully paid +ordinary securities already on issue.
 - The issue price of the +securities is at least 80% of the +volume weighted average market price for +securities in that +class, calculated over the last 5 days on which sales in the +securities were recorded before the day on which the issue was announced, or the day on which the issue was made.
- Introduced 01/07/00 Amended 31/03/04, 01/06/10, 01/07/14
- Note: See ASIC class order CO 09/425 which provides relief from the prospectus and product disclosure statement provisions of the Corporations Act for share and interest purchase plans.
- Exception 9* An issue under an agreement to issue +securities. The entity must have complied with the listing rules when it entered into the agreement to issue the +securities.
- Introduced 30/09/01
- Exception 10* An agreement to issue +equity securities that is conditional on holders of +ordinary securities approving the issue before the issue is made. If an entity relies on this exception it must not issue the +equity securities without approval.
- Introduced 30/09/01

Requirements for the notice of meeting under rule 10.11

- 10.13 The notice of meeting to approve the issue of +securities must include each of the following.
- 10.13.1 The name of the +person.
- 10.13.2 The maximum number of +securities to be issued (if known) or the formula for calculating the number of securities to be +issued to the +person.
- 10.13.3 The date by which the entity will issue the +securities, which must not be more than 1 month after the date of the meeting.
- 10.13.4 If the +person is not a director (in the case of a trust, the responsible entity), a statement of the relationship between the +person and the director (or responsible entity) that requires the approval to be obtained.
- 10.13.5 The issue price of the +securities and a statement of the terms of the issue.
- 10.13.6 A +voting exclusion statement.
- 10.13.6A The intended use of the funds raised.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)c Amended 01/07/98, 01/07/00, 30/09/01, 24/10/05

Cross reference: rule 7.2 exception 14, which requires an additional statement in the notice of meeting in order to rely on that exception.

Approval required to acquire securities under an employee incentive scheme

- 10.14 An entity must not permit any of the following +persons to +acquire +securities under an +employee incentive scheme without the approval of holders of +ordinary securities of the +acquisition.
- 10.14.1 A director of the entity.

10.14.2 An +associate of a director of the entity.

Amended 01/07/14

10.14.3 A +person whose relationship with the entity or a +person referred to in rules 10.14.1 or 10.14.2 is, in ASX's opinion, such that approval should be obtained.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)d., 3W(10) Amended 01/07/00, 30/09/01, 24/10/05, 01/07/14

Example: An acquisition of securities by a director's private company or family trust will generally be caught by rule 10.14.2 or 10.14.3.

Note: Where a single person who fits into a category of persons covered by the rule is to participate in a scheme which is an employee incentive scheme for the purposes of the rule, the entity must seek approval under this rule.

The issue of shares following the exercise of options which have been issued under an employee incentive scheme is not regarded as the acquisition of securities under the scheme.

The notice of meeting to obtain approval must comply with either rule 10.15 or 10.15A.

Amended 01/07/14

Requirements for the notice of meeting under rule 10.14

10.15 The notice of meeting to approve the +acquisition of +securities must include each of the following.

10.15.1 If the +person is not a director, a statement of the relationship between the +person and the director that requires the approval to be obtained.

10.15.2 The maximum number of +securities that may be +acquired by all +persons for whom approval is required, including the formula (if one is used) for calculating the number of +securities to be issued.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)d.(ii), 3W(10)(ii) Amended 30/09/01

10.15.3 The price (including a statement whether the price will be, or be based on, the +volume weighted average market price or +closing market price), or the formula for calculating the price, for each +security to be +acquired under the scheme.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)d.(iii), 3W(10)(iii) Amended 01/07/14

10.15.4 The names of all +persons referred to in rule 10.14 who received +securities under the scheme since the last approval, the number of the +securities received, and +acquisition price for each +security.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)d.(iv), 3W(10)(iv)

10.15.4A The names of all +persons referred to in rule 10.14 entitled to participate in the scheme.

Introduced 30/09/01

10.15.5 A +voting exclusion statement.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)d.(v) and 3W(10)(vi)

Note: Approval allows acquisitions of securities by a director or directors, and persons connected with them, up to the maximum number specified in the notice of meeting.

10.15.6 The terms of any loan in relation to the +acquisition.

Introduced 01/07/96 Origin: Listing Rule 3W(10)(v)

10.15.7 The date by which the entity will issue the +securities, which must be no later than 12 months after the meeting.

Introduced 30/09/01

Note: Approval obtained in accordance with a notice of meeting under this rule is only available if there has been no material change to the circumstances set out in the notice of meeting.

10.15A The notice of meeting to approve the +acquisition of +securities must include each of the following.

10.15A.1 If the +person is not a director, a statement of the relationship between the +person and the director that requires the approval to be obtained.

10.15A.2 The maximum number of +securities that may be +acquired by all +persons for whom approval is required, including the formula (if one is used) for calculating the number of +securities to be issued.

10.15A.3 The price (including a statement whether the price will be, or be based on, the +volume weighted average market price or +closing market price), or the formula for calculating the price, for each +security to be +acquired under the scheme.

Amended 01/07/14

10.15A.4 The names of all +persons referred to in rule 10.14 who received +securities under the scheme since the last approval, the number of the +securities received, and +acquisition price for each +security.

10.15A.5 The names of all +persons referred to in rule 10.14 entitled to participate in the scheme.

10.15A.6 A +voting exclusion statement.

10.15A.7 The terms of any loan in relation to the +acquisition.

10.15A.8 A statement to the following effect.

- Details of any +securities issued under the +employee incentive scheme will be published in each annual report of the entity relating to a period in which +securities have been issued, and that approval for the issue of +securities was obtained under listing rule 10.14.
- Any additional +persons who become entitled to participate in the +employee incentive scheme after the resolution was approved and who were not named in the notice of meeting will not participate until approval is obtained under listing rule 10.14.

10.15A.9 The date by which the entity will issue the +securities, which must be no later than 3 years after the meeting.

Introduced 30/09/01

Note: Approval obtained in accordance with a notice of meeting under this rule is only available if there has been no material change to the circumstances set out in the notice of meeting.

Exceptions to rule 10.14

10.15B Rule 10.14 does not apply to the following.

- +Securities purchased on-market by or on behalf of directors or their +associates under an +employee incentive scheme where the +terms of the scheme permit such purchases.
- The grant of options or other rights to acquire +securities to directors or their +associates under an +employee incentive scheme, where the +securities to be acquired on the exercise of the options or in satisfaction of the rights are required by the +terms of the scheme to be purchased on-market.

Introduced 01/07/14

Note: On-market purchases of securities by or on behalf of directors or their associates under an employee incentive scheme, or to satisfy the entitlements of directors or their associates under options or other rights to acquire securities granted under an employee incentive scheme, are required to be notified to the market under listing rule 3.19A. They will also generally form part of the remuneration of directors and will therefore be disclosed in an entity's remuneration report. They are excluded from listing rule 10.14 on the basis that they do not dilute the interests of other security

holders and, because they are effected at market prices, do not raise the same concerns about pricing as an issue of securities.

The definition of "on-market" for the purposes of this rule is the definition in section 9 of the Corporations Act and is intended to exclude block trades, out of hours trades and certain other transactions effected off-market (even though they may ultimately be reported to a market operator).

No underwriting by directors and associates

10.16 An entity must not permit any of the following persons to underwrite a +dividend or distribution plan.

10.16.1 A director of the entity (in the case of a trust, the responsible entity).

10.16.2 An associate of a director of the entity (in the case of a trust, of the responsible entity).

10.16.3 A +person whose relationship with the entity or a +person referred to in rules 10.16.1 or 10.16.2 is, in ASX's opinion, such that the +person should not underwrite the plan.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(b) Amended 01/07/98, 30/09/01

Payments to directors

10.17 An entity must not increase the total aggregate amount of directors' fees payable to all of its non-executive directors without the approval of holders of its +ordinary securities.

The notice of meeting must include the following:

- the amount of the increase;
- the maximum aggregate amount of directors' fees that may be paid to all of the entity's non-executive directors;
- details of any +securities issued to a non-executive director under rule 10.11 or 10.14 with the approval of the holders of the entity's +ordinary securities at any time within the preceding 3 years; and
- a +voting exclusion statement.

For the purposes of this rule, "directors' fees" means all fees payable by the entity or any of its +child entities to a non-executive director for acting as a director of the entity or any +child entity (including attending and participating in any board committee meetings) and includes superannuation contributions for the benefit of a non-executive director and any fees which a non-executive director agrees to sacrifice for other benefits. It does not include reimbursement of genuine out-of-pocket expenses, genuine "special exertion" fees paid in accordance with the entity's constitution, or +securities issued to a non-executive director under rule 10.11 or 10.14 with the approval of the holders of the entity's +ordinary securities).

Introduced 01/07/96 Origin: Listing Rule 3L(7) Amended 01/06/10, 01/07/14

Note 1: This rule does not apply to the director's fees paid to a non-executive director of a child entity who is not also a director of the entity.

Note 2: For the avoidance of doubt, directors' fees sacrificed to pay for the purchase of securities in the entity (whether under an employee incentive scheme of the type referred to in rule 10.15B or otherwise) must come out of the total amount of directors' fees approved by the holders of its ordinary securities under rule 10.17.

Note 3: ASX does not regard acting as a director of a child entity or attending and participating in normal board committee meetings (such as an audit, nomination, remuneration or risk committee) of the entity or a child entity as a "special exertion" by a director and therefore the fees paid by an entity or any of its child entities to a non-executive director for such services must come out of the total amount of directors' fees approved by the holders of its ordinary securities under rule 10.17.

10.17A The total amount of directors' fees paid to the directors of an entity by the entity or any of its +child entities must not exceed the total amount of directors' fees approved by the holders of its +ordinary securities under rule 10.17.

Introduced 01/07/14

Note: This rule does not apply to the director's fees paid to a non-executive director of a child entity who is not also a director of the entity.

10.17B Rules 10.17 and 10.17A do not apply to the remuneration of an executive director. However, an executive director's remuneration must not include a commission on, or percentage of, operating revenue.

Introduced 01/07/14

Termination benefits

10.18 An entity must ensure that no officer of the entity or of any of its +child entities will be entitled to +termination benefits (or any increase in them) if a change occurs in the shareholding or control of the listed entity or +child entity.

Introduced 01/07/96 Origin: Listing Rule 3J(16)(a)

10.19 Without the approval of holders of +ordinary securities, an entity must ensure that no officer of the entity or any of its +child entities will be, or may be, entitled to +termination benefits if the value of those benefits and the +termination benefits that are or may become payable to all officers together exceed 5% of the +equity interests of the entity as set out in the latest +accounts given to ASX under the listing rules. The notice of meeting must include a +voting exclusion statement.

Introduced 01/07/96 Origin: Listing Rule 3J(16)(b) Amended 01/07/00

Cross reference: rule 19.11A.

End of Section. Next page is no. 1101.