

## 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, payments to directors and termination benefits.

#### Acquisition and disposal of assets

##### Approval required for certain acquisitions or disposals

10.1 An entity (or, in the case of a trust, the \*responsible entity of the trust) must ensure that neither the entity, nor any of its \*child entities, \*acquires or agrees to \*acquire a substantial asset from, or \*disposes of or \*agrees to dispose of a substantial asset to, any of the following \*persons without the approval of the 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 \*person who is, or was at any time in the 6 months before the transaction or agreement, a \*substantial (10%+) holder 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.

The notice of meeting to obtain approval must comply with rule 10.5.

Introduced 01/07/96 Origin: Listing Rules 3J(3)(a), (b) Amended 01/07/98, 13/03/00, 30/09/01, 01/07/14, 01/12/19

##### What is a substantial asset?

10.2 An asset is substantial if its value or the value of the consideration being paid or received by the entity 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, 01/12/19

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 determining whether an asset meets the threshold in rule 10.2 to be a substantial asset:

- whether an asset is classified as a tangible or intangible asset is irrelevant;
- if ASX accepts that an asset should be valued using its book value, any provisions for depreciation and amortisation and any impairment charges affecting the asset are to be deducted from its value;
- liabilities assumed by the entity as part of an \*acquisition or assumed by someone else as part of a \*disposal are not to be deducted from the value of the asset being \*acquired or \*disposed of; and
- separate \*acquisitions or \*disposals 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) An agreement or transaction between the entity and a wholly owned \*child entity.
- (b) An agreement or transaction between wholly owned \*child entities of the entity.
- (c) An agreement or transaction between:
  - (i) entities that are part of a \*stapled group;
  - (ii) an entity that is part of a \*stapled group and a wholly owned \*child entity of that entity;
  - (iii) an entity that is part of a \*stapled group and a wholly owned \*child entity of another entity in the \*stapled group;
  - (iv) wholly owned \*child entities of an entity that is part of a \*stapled group; or
  - (v) a wholly owned \*child entity of an entity that is part of a \*stapled group and a wholly owned \*child entity of another entity in the \*stapled group.
- (d) An issue of, or agreement to issue, \*securities by the entity for cash.
- (e) An acquisition or disposal under an agreement to acquire or dispose of a substantial asset. The entity must have entered into the agreement before it was listed and disclosed the existence and material terms of the agreement in the \*prospectus, \*PDS or \*information memorandum lodged with ASX under rule 1.1 condition 3, or else complied with the listing rules when it entered into the agreement.
- (f) An agreement to acquire or dispose of a substantial asset that is conditional on the holders of the entity's \*ordinary securities approving the transaction under rule 10.1 before the agreement is given effect to. If an entity relies on this exception it must not give effect to the agreement without such approval.
- (g) An agreement or transaction between the entity and a person who would not otherwise be a \*related party but for the fact that they believe, or have reasonable grounds to believe, that they are likely to become a \*related party in the future because of the agreement or transaction.

Introduced 01/07/97 Origin: Listing Rules 3J(3)(h) Amended 13/03/00, 01/12/19

### **Application of rule 10.1 to options**

10.4 In the case of an \*acquisition or \*disposal of an asset by the grant or exercise of an option, the following rules apply.

10.4.1 The consideration for the \*acquisition or \*disposal is the total of the issue price of the option and its exercise price.

- 10.4.2 Whether the asset is a substantial asset is to be assessed when the option is granted and also when the option is exercised.
- 10.4.3 If at the time an option is granted, an asset is not a substantial asset but at the time the option is to be exercised the asset has become a substantial asset, the exercise of the option must be approved under rule 10.1. This can be done at any time before the option is exercised (including before the asset became a substantial asset).
- Examples: An asset is a substantial asset at the time an option is given to or taken from a party referred to in rule 10.1. The giving or taking of the option must be approved under rule 10.1. No further approval is required under rule 10.1 for the exercise of the option.
- An asset is not a substantial asset at the time an option is given to or taken from a party referred to in rule 10.1. The giving or taking of the option does not require approval under rule 10.1. However, recognising that the asset could become a substantial asset before the option is exercised, the entity seeks and obtains approval under rule 10.1 to the acquisition or disposal of the asset. No further approval is required under rule 10.1 for the exercise of the option.

Introduced 01/07/96 Origin: Listing Rule 3J(3)(c)(i) Amended 01/07/97, 01/12/19

### **Requirements for the notice of meeting under rule 10.1**

- 10.5 The notice of meeting to approve a transaction under rule 10.1 must include each of the following.
- 10.5.1 The name of the \*person from whom the entity is acquiring the substantial asset or to whom the entity is disposing of the substantial asset.
- 10.5.2 Which category in rules 10.1.1 – 10.1.5 the person falls within and why.
- 10.5.3 Details of the asset being acquired or disposed of.
- 10.5.4 The consideration for the acquisition or disposal.
- 10.5.5 In the case of an acquisition, the intended source of funds (if any) to pay for the acquisition.
- 10.5.6 In the case of a disposal, the intended use of funds (if any) received for the disposal.
- 10.5.7 The timetable for completing the acquisition or disposal.
- 10.5.8 If the acquisition or disposal is occurring under an agreement, a summary of any other material terms of the agreement.
- 10.5.9 A \*voting exclusion statement.
- 10.5.10 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 the holders of the entity's \*ordinary securities whose votes in favour of the transaction are not to be disregarded under rule 14.11. 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) Amended 01/06/12, 01/12/19

### **Requirements for independent expert's report**

- 10.6 The report on the transaction from the independent expert referred to in rule 10.5.10 must meet the following requirements.
- 10.6.1 The report must be given individually to each holder of the entity's ordinary securities using the same method as that used to give the notice of meeting.

- 10.6.2 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 Amended 01/12/19

Note: A copy of the independent expert's report on the transaction must also be given to ASX under Listing Rule 15.1.7.

### **Classified assets**

- 10.7 If an \*acquisition to which rule 10.1 applies is of a \*classified asset, the consideration must be \*securities in the entity only and those \*securities must be \*restricted securities. This requirement does not apply if, and to the extent that, the consideration is reimbursement of expenditure incurred by the vendor in developing the \*classified asset.

Introduced 01/07/96 Origin: Listing Rules 3J(37), 3J(3)(e) Amended 01/12/19

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

Cross reference: Appendix 9B.

- 10.8 [Deleted]

Introduced 01/07/96 Origin: Listing Rules 3J(3)(g)(i), 3J(3)(g)(ii) Deleted 01/12/19

- 10.9 [Deleted]

Introduced 01/07/96 Origin: Listing Rule 3J(3)(g)(ii) Deleted 01/12/19

### **Requirements for the notice of meeting under rules 10.1 or 10.9**

- 10.10 [Deleted]

Introduced 01/07/96 Origin: Listing Rule 3J(3)(c)(ii) Amended 01/06/12 Deleted 01/12/19

- 10.10A [Deleted]

Introduced 01/06/12 Deleted 01/12/19

## **Acquisition of securities in the entity**

### **Approval required for certain issues 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 the holders of its \*ordinary securities.
- 10.11.1 A \*related party.
  - 10.11.2 A \*person who is, or was at any time in the 6 months before the issue or agreement, a \*substantial (30%+) holder in the entity.
  - 10.11.3 A \*person who is, or was at any time in the 6 months before the issue or agreement, a \*substantial (10%+) holder in the entity and who has nominated a director to the board of the entity (in the case of a trust, to the board of the \*responsible entity of the trust) pursuant to a relevant agreement which gives them a right or expectation to do so.

10.11.4 An \*associate of a \*person referred to in rules 10.11.1 to 10.11.3.

10.11.5 A \*person whose relationship with the entity or a \*person referred to in rules 10.11.1 to 10.11.4 is such that, in ASX's opinion, the issue or agreement should be approved by \*security holders.

The notice of meeting to obtain approval must comply with rule 10.13.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a), 3E(8)(a)c Amended 01/07/00, 30/09/01, 01/12/19

Note: Where security holders approve an issue of or agreement to issue securities under rule 10.11, the securities must be issued within one month of that approval or else the approval will lapse (see rule 10.13.5).

## Exceptions to rule 10.11

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

### *Exception 1*

An issue of \*securities to holders of \*ordinary securities made under a \*pro rata issue and to holders of other \*equity securities to the extent that the terms of issue of the \*equity securities permit participation in the \*pro rata issue.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a) Amended 01/12/19

Note: An issue is not precluded from being a pro rata issue for purposes of the listing rules because security holders with addresses outside Australia and New Zealand are excluded from the issue under rule 7.7.1 or because security holders are allowed to subscribe for a greater number of securities than their entitlement under rule 7.11.4 (see the definition of "pro rata issue" in rule 19.12).

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*

An issue of \*securities to an \*underwriter under an agreement to \*underwrite the shortfall on:

- a \*pro rata issue to holders of \*ordinary securities; or
- a \*pro rata issue to holders of \*ordinary securities and to holders of other \*equity securities to the extent that the terms of issue of the \*equity securities permit participation in the \*pro rata issue.

The entity must:

- have disclosed:
  - the name of the \*underwriter;
  - the extent of the \*underwriting;
  - the fee, commission or other consideration payable to the \*underwriter; and
  - a summary of the significant events that could lead to the \*underwriting being terminated,

in the Appendix 3B lodged under rule 3.10.3 in relation to the \*pro rata issue or, if the \*underwriting was entered into after the Appendix 3B was lodged, by market announcement as soon as practicable following the entry of the \*underwriting agreement; and

- make the issue to the \*underwriter not later than 15 \*business days after the close of the offer.

In this rule, a reference to an \*underwriter (and cognate expressions) includes a sub-underwriter.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)b Amended 02/11/15, 01/12/19

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

The reference in Exception 2 to an “underwriter” includes a sub-underwriter. If a party referred to in rule 10.1.1 to 10.1.5 is issued securities as a sub-underwriter, to fit within this exception, the details disclosed in the Appendix 3B or market announcement referred to in the exception must include the name of that party, the extent of their sub-underwriting, the fee or commission payable to them as sub-underwriter and a summary of the significant events that could lead to the sub-underwriting being terminated.

The reference to the “extent of the underwriting” means the amount or proportion of the issue that is underwritten or sub-underwritten (as the case may be).

The reference to the “fee, commission or other consideration payable” includes any applicable discount the underwriter or sub-underwriter receives to the issue price payable by participants in the issue.

### *Exception 3*

An issue of \*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.

Exception 3 does not apply to an issue of \*securities under an agreement to \*underwrite the shortfall on a \*dividend or distribution plan.

Introduced 01/07/96 Origin: Listing Rules 3E(8)(a)e., 3E(8)(b)(ii) Amended 11/03/02, 31/03/04, 01/12/19

Note: Exception 3 only applies where 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 entity has specified a dollar limit on the level of participation e.g. security holders can only participate to a maximum value of \$x in respect of their entitlement.
- The entity has specified a maximum number of securities that can participate in the plan e.g. security holders can only receive securities in lieu of dividend payable for x number of securities.

A restriction on employees participating in a dividend or distribution plan in respect of securities held under an employee incentive scheme is not a limit on participation for the purposes of Exception 3.

Cross reference: rule 10.16.

### *Exception 4*

An issue of \*securities under a \*security purchase plan that satisfies the conditions in ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547 or that would otherwise satisfy those conditions but for the fact that the entity’s securities have been suspended from trading on ASX for more than a total of 5 days during the 12 months before the day on which the offer is made under the plan or, if the securities have been quoted on ASX for less than 12 months, during the period of quotation.

Exception 4 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.

Exception 4 does not apply to an issue of \*securities under an agreement to \*underwrite the shortfall on a \*security purchase plan.

Introduced 01/07/00 Amended 31/03/04, 01/06/10, 01/07/14, 01/12/19

Note: ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547 provides relief from the prospectus and PDS provisions of the Corporations Act for qualifying share and interest purchase plans. Where the conditions in that class order are

not satisfied, the entity will generally need to prepare a prospectus or PDS for an offer of securities under a security purchase plan.

*Exception 5* An issue of +securities under a takeover bid or under 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, 01/12/19

Note: "Takeover bid" has the same meaning as in section 9 of the Corporations Act. The reference to a "merger" by way of scheme of arrangement under Part 5.1 of the Corporations Act covers any form of business combination effected via such a scheme.

*Exception 6* An issue of +securities that is approved for the purposes of item 7 of section 611 of the Corporations Act.

Introduced 01/12/19

Cross reference: rule 4.10.22

*Exception 7* An issue of +securities resulting from the +conversion of +convertible securities. The entity must have issued the +convertible securities:

(a) before it was listed and disclosed the existence and material terms of the +convertible securities in the +prospectus, +PDS or +information memorandum lodged with ASX under rule 1.1 condition 3, or

(b) after it was listed and complied with the listing rules when it did so.

Introduced 01/07/98 Amended 01/12/19

Note: An option is a convertible security for the purposes of the Listing Rules.

*Exception 8* An issue of +equity securities under an +employee incentive scheme made, or taken to have been made, with the approval of the holders of the entity's +ordinary securities under rule 10.14.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)d Amended 01/07/14, 01/12/19

*Exception 9* A grant of options or other rights to acquire +equity 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.

Introduced 01/07/14 Amended 01/12/19

Note: Exception 9 does not apply to on-market purchases of equity securities of the type referred to in paragraph (a) of listing rule 10.16. Such purchases do not involve an issue of equity securities. They therefore are not caught by listing rule 10.11 and no exception to that rule is needed in relation to them.

*Exception 10* An issue under an agreement to issue +securities. The entity must have entered into the agreement:

(a) before it was listed and disclosed the existence and material terms of the agreement in the +prospectus, +PDS or +information memorandum lodged with ASX under rule 1.1 condition 3, or

(b) after it was listed and complied with the listing rules when it did so.

Introduced 30/09/01 Amended 01/12/19

*Exception 11* An agreement to issue +securities that is conditional on the holders of the entity's +ordinary securities approving the issue under rule 10.11 before the issue is made. If an entity relies on this exception it must not issue the +securities without such approval.

Introduced 30/09/01 Amended 01/12/19

*Exception 12* An issue of +equity securities under an agreement or transaction between the entity and a +person who would not otherwise be a +related party but for the fact that they believe, or have reasonable grounds to believe, that they are likely to become a +related party in the future because of the agreement or transaction.

Introduced 01/07/97 Amended 13/03/00, 30/09/01, 01/12/19

### **Requirements for the notice of meeting under rule 10.11**

- 10.13 The notice of meeting to approve the issue of +securities to a +person under rule 10.11 must include each of the following.
- 10.13.1 The name of the +person.
- 10.13.2 Which category in rules 10.11.1 – 10.11.5 the person falls within and why.
- 10.13.3 The number and class of +securities to be issued to the +person.
- Note: Where the number of the securities to be issued is not fixed, this may be expressed as a maximum number or as a formula.
- 10.13.4 If the +securities are not fully paid +ordinary securities, a summary of the material terms of the +securities.
- 10.13.5 The date or dates on or by which the entity will issue the +securities, which must not be more than 1 month after the date of the meeting.
- 10.13.6 The price or other consideration the entity will receive for the issue.
- Note: Where the price at which the securities are to be issued is not fixed, this may be expressed as a minimum amount or as a formula.
- 10.13.7 The purpose of the issue, including the intended use of any funds raised by the issue.
- 10.13.8 If the person is:
- a director and therefore a related party under rule 10.11.1; or
  - an +associate of, or +person connected with, a director under rules 10.11.4 or 10.14.5,
- and the issue is intended to remunerate or incentivise the director, details (including the amount) of the director's current total remuneration package.
- 10.13.9 If the +securities are issued under an agreement, a summary of any other material terms of the agreement.
- 10.13.10 A +voting exclusion statement.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)c Amended 01/07/98, 01/07/00, 30/09/01, 24/10/05, 01/12/19

### **Approval required to acquire securities under an employee incentive scheme**

- 10.14 An entity must not permit any of the following +persons to +acquire +equity securities under an +employee incentive scheme without the approval of the holders of its +ordinary securities.
- 10.14.1 A director of the entity (in the case of a trust, a director of the +responsible entity of the trust).
- 10.14.2 An +associate of a +person referred to in rule 10.14.1.

10.14.3 A \*person whose relationship with the entity or a \*person referred to in rule 10.14.1 or 10.14.2 is such that, in ASX's opinion, the acquisition should be approved by \*security holders.

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

An approval under this rule ceases to be valid if there is a material change to the terms of the scheme from those set out in the entity's notice of meeting.

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, 01/12/19

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.

### **Requirements for the notice of meeting under rule 10.14**

10.15 The notice of meeting to approve the \*acquisition of \*equity securities by a \*person under an \*employee incentive scheme under rule 10.14 must include each of the following.

10.15.1 The name of the \*person.

10.15.2 Which category in rules 10.14.1 – 10.14.3 the \*person falls within and why.

10.15.3 The number and class of \*securities proposed to be issued to the \*person under the scheme for which approval is being sought.

Note; where the number of the securities that may be acquired is not fixed, this may be expressed as a maximum number or as a formula.

10.15.4 If the person is:

- a director under rule 10.14.1; or
- an \*associate of, or \*person connected with, a director under rules 10.14.2 or 10.14.3,

details (including the amount) of the director's current total remuneration package.

10.15.5 The number of \*securities that have previously been issued to the \*person under the scheme and the average \*acquisition price (if any) paid by the \*person for those \*securities.

10.15.6 If the \*securities are not fully paid \*ordinary securities:

- a summary of the material terms of the +securities;
- an explanation of why that type of security is being used; and
- the value the entity attributes to that security and its basis.

10.15.7 The date or dates on or by which the entity will issue the \*securities to the \*person under the scheme. This must be no later than 3 years after the date of the meeting.

10.15.8 The price at which the entity will issue the \*securities to the \*person under the scheme.

Note: where the price at which the securities will be issued is not fixed, this may be expressed as a formula.

10.15.9 A summary of the material terms of the scheme.

Note: The entity may satisfy this obligation by including in, or annexing to the notice of meeting, a copy of the scheme.

10.15.10 A summary of the material terms of any loan that will be made to the \*person in relation to the \*acquisition.

Note: The entity may satisfy this obligation by including in, or annexing to the notice of meeting, a copy of the loan agreement.

10.15.11 A statement to the following effect.

- Details of any \*securities issued under the scheme will be published in the annual report of the entity relating to the period in which they were issued, along with a statement that approval for the issue was obtained under listing rule 10.14.
- Any additional \*persons covered by listing rule 10.14 who become entitled to participate in an issue of \*securities under the scheme after the resolution is approved and who were not named in the notice of meeting will not participate until approval is obtained under that rule.

10.15.12 A \*voting exclusion statement.

Introduced 01/07/96 Amended 30/09/01, 01/07/14, 01/12/19

10.15A [Deleted]

Introduced 30/09/01 Amended 01/07/14 Deleted 01/12/19

### Exceptions to rule 10.14

10.16 Rule 10.14 does not apply to the following.

- (a) \*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.
- (b) 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.
- (c) An issue of \*equity securities pursuant to the exercise of an option or in satisfaction of a right to acquire such \*securities granted to directors or their \*associates under an \*employee incentive scheme. The entity must have issued the option or right:
  - (i) before it was listed and disclosed the information referred to in rules 10.15.1 – 10.15.10 in relation to the option or right in the \*prospectus, \*PDS or \*information memorandum lodged with ASX under rule 1.1 condition 3; or
  - (ii) after it was listed and with the approval of the holders of its \*ordinary securities under rule 10.14.

In each case, the issue of the \*equity securities pursuant to the exercise of the option or the performance of the right is taken to have been made with the approval of the holders of its \*ordinary securities under rule 10.14.

Introduced 01/07/14 Amended 01/12/19 to be re-numbered as rule 10.16. The previous rule 10.16 was deleted on that date.

Notes: 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 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 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 term "on-market" in this rule has the same meaning as in section 9 of the Corporations Act (rule 19.3). It effectively excludes "special crossings" and crossings effected outside of normal market hours.

### 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.**