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SECTION 17 TRANSITIONAL ARRANGEMENTS

The purpose of this Section is to set out transitional arrangements governing the transition from the SCH Business Rules to these Rules including:

- (a) the grandfathering of Participants, Issuers and Payments Providers under the former Rules to these Rules;
- (b) specifying how the new rules in relation to Sponsorship Agreements are to be applied; and

permitting disciplinary proceedings to be taken for a breach of the former Rules even though the breach may only have been discovered after these Rules come into effect.

17.1 INTERPRETATION

17.1.1 Definitions

In this Rule 17:

“**Effective Date**” means the date which ASX Settlement notifies Facility Users as being the date on which these Rules become effective;

“**Existing Broker**” means a person who immediately before the Effective Date was admitted to participate in CHESSE as a Broker under Old Rule 2.1.1;

“**Existing CDIs**” means those CDIs that immediately before the Effective Date were issued over a class of Principal Financial Products that were CHESSE Approved Financial Products under the Old Rules;

“**Existing CHESSE Approved Financial Products**” means those CHESSE Approved Financial Products that immediately before the Effective Date were CHESSE Approved Financial Products under the Old Rules;

“**Existing Department and Subsidiary of ASX**” means a person who immediately before the Effective Date was admitted to participate in CHESSE as a Broker or NBP under Old Rule 2.5.1;

“**Existing Exchange other than ASX**” means a person who immediately before the Effective Date was admitted to participate in CHESSE as an NBP under Rule 2.5A.1;

“**Existing FDIs**” means those FDIs that immediately before the Effective Date corresponded to a class of Participating International Financial Products that were CHESSE Approved Financial Products under the Old Rules;

“**Existing Foreign Clearing House**” means a person who immediately before the Effective Date was admitted to participate in CHESSE as an NBP under Old Rule 2.5B.1;

“**Existing Issuer**” means a person who immediately before the Effective Date was recognised as an Issuer under the Old Rules;

“**Existing NBP**” means a person who immediately before the Effective Date was admitted to participate in CHESS as a NBP under Old Rule 2.3.1 or 2.3.2;

“**Existing NBP Subject to Restrictions**” means a person who immediately before the Effective Date was admitted to participate in CHESS as an NBP under Old Rule 2.4.1, 2.4.2 or 2.5A;

“**Existing NSSP**” means a person who immediately before the Effective Date was admitted to participate in CHESS as a NSSP under Old Rule 2.1A.1;

“**Existing Participant**” means a Participant within the meaning of the Old Rules;

“**Existing Participant Sponsored Holder**” means a Participant Sponsored Holder within the meaning of the Old Rules;

“**Existing Payments Provider**” means a person who immediately before the Effective Date was recognised as a Payments Provider under the Old Rules;

“**Existing RTGS Payments Provider**” means a person who immediately before the Effective Date was recognised as an RTGS Payments Provider under the Old Rules;

“**Existing Settlement Agent**” means a person who immediately before the Effective Date was appointed as a settlement agent under ASX Business Rule 4.51;

“**Existing Sponsorship Agreement**” means a Sponsorship Agreement within the meaning of the Old Rules;

“**Old Rules**” means the SCH Business Rules in force immediately before the Effective Date;

“**Performance Bond Lodged Under the Old Rules**” has the same meaning as the definition of Performance Bond in the Old Rules;

“**Scheduled Settlement**” has the same meaning as in the Old Rules.

From the Effective Date until 10 March 2004 the definition of “**Market Operator**” is modified to include:

- (a) a securities exchange under the Old Corporations Act;
- (b) an exempt stock market under section 771 of the Old Corporations Act; or
- (c) a special stock market under section 770A of the Old Corporations Act,

and that definition is to be construed accordingly.

Introduced 11/03/04

17.2 TRANSITION OF PARTICIPANTS

17.2.1 Participants taken to be admitted under the Rules

From the Effective Date:

- (a) each Existing Broker is taken to be admitted as a General Settlement Participant under these Rules;
- (b) each Existing NBP admitted under Old Rule 2.3.1, Old Rule 2.3.2 or Old Rule 2.5A is taken to be admitted as a General Settlement Participant under these Rules;
- (c) each Existing NBP Subject to Restrictions is taken to be admitted as a Specialist Settlement Participant under these Rules;
- (d) each Existing Department and Subsidiary of ASX is taken to be admitted as a General Settlement Participant under these Rules;
- (e) each Existing Exchange Other than ASX is taken to be admitted as a General Settlement Participant under these Rules;
- (f) each Existing Foreign Clearing House is taken to be admitted as a General Settlement Participant under these Rules;
- (g) each Existing NSSP is taken to be admitted as an Account Participant under these Rules; and
- (h) each Existing Settlement Agent is taken to be admitted as a Settlement Agent under these Rules.

From the Effective Date until 10 March 2004 the requirement in Rule 4.3.1(b)(i) that an applicant for admission as a General Settlement Participant and the requirement in Rule 4.5.1(a) that an applicant for admission as an Account Participant be the holder of an Australian financial services licence under the Corporations Act is satisfied if the applicant for admission is the holder of a dealers licence under the Old Corporations Act, the terms of which do not prevent the applicant from carrying on a securities business in relation to any securities (as defined in section 92(1) of the Old Corporations Act), or the holder of a futures brokers licence under the Old Corporations Act.

Introduced 11/03/04

17.3 TRANSITION OF ISSUERS

17.3.1 Issuers taken to be Issuers under the Rules

From the Effective Date each Existing Issuer is taken to be an Issuer under these Rules.

Introduced 11/03/04

17.4 TRANSITION OF PAYMENTS PROVIDERS

17.4.1 Payments Providers taken to be Payments Providers under the Rule

From the Effective Date each Existing Payments Provider is taken to be a Payments Provider under these Rules. From the Effective Date each Existing RTGS Payments Provider is taken to be an RTGS Payments Provider under these Rules.

Introduced 11/03/04

17.5 TRANSITION OF APPROVED FINANCIAL PRODUCTS

17.5.1 CHESS Approved Financial Products taken to be Approved Financial Products

From the Effective Date:

- (a) all Existing CHESS Approved Financial Products;
- (b) all Existing CDIs; and
- (c) all Existing FDIs,

are taken to be Approved Financial Products under these Rules.

Introduced 11/03/04 Amended 06/06/05

17.6 SPONSORSHIP AGREEMENTS

17.6.1 Sponsorship Agreements continue to operate

Where an Existing Participant has entered into a Existing Sponsorship Agreement with an Existing Participant Sponsored Holder in accordance with the Old Rules, the terms of that Sponsorship Agreement continue to operate under these Rules on and from the Effective Date subject to the following:

- (a) Rules 7.2.2(b), 7.2.2(i) and 7.2.4 do not apply until the terms of the Existing Sponsorship Agreement are varied or amended; and
- (b) Existing Participants must, on the next occasion after the Effective Date that they send a written communication to an Existing Participating Sponsored Holder, inform the Holder in writing at that time of the effect of Rules 7.2.2(b), 7.2.2(i) and 7.2.4.

For the avoidance of doubt, Section 7 of the Rules applies to all Sponsorship Agreements entered into on or after the Effective Date.

Note: The effect of Rule 17.6 is that Rules 7.2.2(b), 7.2.2(i) and 7.2.4 only apply to new Sponsorship Agreements entered into on or after the Effective Date and to former Sponsorship Agreements that are varied on or after the Effective Date but that Existing Participant Sponsored Holders must be informed in writing by their Sponsoring Participant of the effect of the new rules.

Introduced 11/03/04 Amended 10/06/04

17.7 WAIVERS

17.8.1 Transactions schedule for Scheduled Settlement taken to be Scheduled for Batch Settlement

Any waivers granted under the Old Rules continue to be effective and operate in accordance with their terms and conditions as if they were made under these Rules.

Introduced 11/03/04

17.8 BATCH SETTLEMENT

Any transaction scheduled for Scheduled Settlement under the Old Rules is taken to be an Instruction scheduled for Batch Settlement under these Rules.

Introduced 11/03/04

17.9 EFFECT OF TRANSITION ON EXISTING RIGHTS AND OBLIGATIONS

17.9.1 Rights and obligations not affected

This Rule 17 does not affect any accrued rights which ASX Settlement, ASX, ASX Clear or any other person has against an Existing Participant, Existing Issuer or any other person under the Old Rules or any accrued obligations which the Existing Participant, Existing Issuer or any other person has under the Old Rules to ASX Settlement, ASX, ASX Clear or to any other person. Without limiting this Rule 17.9, following the Effective Date:

- (a) ASX Settlement will continue to have jurisdiction in respect of an Existing Participant and Existing Issuer concerning any conduct or any failure to comply with the Old Rules which occurred before the Effective Date whether or not ASX Settlement was or should have been aware of that conduct or failure prior to the Effective Date. ASX Settlement will be permitted to take action against an Existing Participant or an Existing Issuer under the Old Rules for a breach of the Old Rules even if ASX Settlement only became aware of the breach on or after the Effective Date; and
- (b) each Existing Participant, Existing Issuer and any other person continues to be bound by any indemnity given by the Existing Participant, Existing Issuer or person under the Old Rules to ASX Settlement, ASX, ASX Clear or any other person.

Introduced 11/03/04

17.10 PERFORMANCE BONDS

17.10.1 Valid Performance Bond to be a valid Settlement Bond or Sponsorship Bond

A valid Performance Bond Lodged Under the Old Rules by an Existing NBP is taken to be a valid Settlement Bond or Sponsorship Bond, as the case may be, lodged with ASX Settlement under these Rules subject to the following:

- (a) any reference in the Performance Bond Lodged Under the Old Rules to:

- (i) the SCH Business Rules is taken to be a reference to these Rules; and
 - (ii) the NBP requesting the issue of the bond is taken to be a reference to a Sponsorship Participant or Settlement Participant as the case may be; and
- (b) the obligation under these Rules requiring a Participant to lodge a Sponsorship Bond of \$500,000 or a Settlement Bond of \$500,000 or both can be met by a Participant lodging and maintaining with ASX Settlement one or more bonds, including the Performance Bond Lodged Under the Old Rules, which, in combination, satisfy the required amount.

Note: The effect of Rule 17.10 is that a valid Performance Bond Lodged Under the Old Rules in an amount of \$500,000 can be used by a Participant as a Sponsorship Bond or a Settlement Bond.

If the Performance Bond Lodged Under the Old Rules is only for an amount of \$250,000, or if it is for an amount of \$500,000 and the Participant is required to lodge a Sponsorship Bond and a Settlement Bond totalling \$1 million, then the Participant will have to lodge an additional bond or bonds for the shortfall so that the total of all bonds lodged with ASX Settlement satisfies the required amount.

Introduced 11/03/04

17.11 NOTICES, CIRCULARS AND BULLETINS

17.11.1 Notices and other communications taken to be made under the Rules

Any circulars, notices, bulletins, explanatory memoranda or other communications issued or made by ASX Settlement under the Old Rules are taken to be issued or made under these Rules with such modifications to rule references and terminology as are necessary to give effect to the circular, notice, bulletin, explanatory memorandum or communication.

Introduced 11/03/04

17.12 ALLOCATION OF AICS, UICS AND PIDS

17.12.1 AIC's, UIC's and PID's taken to be allocated under the Rules

The allocation of any AIC, UIC or PID under the Old Rules is taken to be an allocation under these Rules.

Introduced 11/03/04

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