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SECTION 1 SCOPE OF RULEBOOK

This Rulebook deals with enforcing compliance with the Operating Rules and appeal matters including:

- the taking of enforcement action (including exercise of powers) by an ASX Licensee where a Relevant Person has breached the Operating Rules;
- appeals available to a Relevant Person under any of the Operating Rules;
- the process of appeal to an Appeal Tribunal;
- the consolidation of enforcement actions and appeals; and
- the recording and announcement of actions and determinations made by ASX and the Appeal Tribunal.

This Rulebook also deals with the establishment and composition of the Appeal Tribunal Panel and an Appeal Tribunal and sets out:

- the powers of Appeal Tribunals; and
- how proceedings before an Appeal Tribunal are to be conducted.

1.1 SCOPE OF RULE BOOK

This Rule Book deals with the powers, processes and procedures for dealing with contraventions of the Operating Rules and appeals in relation to the operation of the licensed markets and facilities within ASX.

Amended 01/08/10

1.1.1 Operating Rules of ASX Licensees

These Rules form part of the Operating Rules of each ASX Licensee where relevant for the purposes of the Corporations Act. These Rules should be read in conjunction with:

- (a) the Procedures;
- (b) the Operating Rules of the ASX Licensees; and
- (c) the Corporations Act.

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

Amended 01/08/10

1.1.2 Binding effect of Rules

These Rules are binding on ASX, Relevant Persons and suitably qualified affiliates in the manner set out in:

- (a) section 793B of the Corporations Act; and
- (b) section 822B of the Corporations Act; and
- (c) Rule 1.1.3.

Amended 01/08/10

1.1.3 Covenants to observe Rules

These Rules have the effect of a contract under seal between ASX, Relevant Persons and suitably qualified affiliates under which:

- (a) each Relevant Person and each suitably qualified affiliate covenants with ASX and each other Relevant Person and suitably qualified affiliate to observe the Rules and to perform the obligations which the Rules purport to impose on the Relevant Person and the suitably qualified affiliate, in the manner provided by the Rules; or
- (b) ASX covenants with each Relevant Person and each suitably qualified affiliate to observe the Rules and to perform the obligations which the Rules purport to impose on ASX, in the manner provided by the Rules.

Amended 01/08/10

1.2 CORPORATIONS ACT COMPLIANCE AND CONTRAVENTIONS

1.2.1 Enforcement of contractual provisions

Where these Rules require a Relevant Person to comply with a provision of the Corporations Act (and therefore, contemplate that ASX may take action against a Relevant Person for a contravention of that provision):

- (a) ASX or a Tribunal may enforce that provision as if it were repeated as a Rule;
- (b) any action taken or determination by ASX or a Tribunal is not to be regarded as taking action or making a determination under the Corporations Act but rather as taking action or making a determination under the contract constituted by these Rules in relation to a contravention of the contractual term referred to in paragraph (a);
- (c) ASX and any Tribunal may take action or make a determination under this Section 1.2 regardless of whether a court, the Commission or any other authority has commenced or completed any investigation, prosecution or other action in relation to the alleged contravention of that provision; and

- (d) any action or determination by ASX or any Tribunal is not affected by any previous or subsequent action or determination by any court, the Commission or any other authority in relation to an alleged contravention of that provision.

Amended 01/08/10

1.3 DEFINITIONS AND INTERPRETATION

1.3.1 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 any 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 ASX Licensee is a reference to those Operating Rules, as modified or amended from time to time. However a reference to a breach of the Operating Rules shall be a reference to those Operating Rules in force at the time of occurrence of the alleged breach;
- (c) a reference to any Rule or Procedure is a reference to that Rule or Procedure as amended from time to time;
- (d) the singular includes the plural and vice-versa;
- (e) a reference to a person, body, corporation, trust, partnership, unincorporated body, firm, association, authority or government includes any of them;
- (f) a word denoting any gender includes all genders;
- (g) if a word or expression is given a particular meaning, another part of speech or grammatical form of that word or expression has a corresponding meaning;
- (h) a reference to power includes a reference to authority and discretion;
- (i) a reference to a Rule (eg Rule 2.4) includes a reference to all sub-Rules included under that Rule (eg Rule 2.4.3);
- (j) a reference to a Section (eg Section 2) includes a reference to all Rules and sub-Rules within that Section;
- (k) a reference to time is to the time in Sydney, Australia;
- (l) a reference to currency is a reference to Australian currency;
- (m) a reference to writing includes typing, printing, lithography, photography, telex, facsimile or any other mode of representing or reproducing words in a visible form;
- (n) where there is a reference to the power of ASX to make, demand or impose a requirement there is a corresponding obligation of the relevant Relevant Person to comply with that demand or requirement in all respects; and

- (o) a reference to ASX notifying or giving notice to a Relevant Person or vice-versa is a reference to notifying or giving notice in accordance with the relevant Operating Rules.

Amended 01/08/10

1.4 WORDS AND EXPRESSIONS DEFINED IN THE CORPORATIONS ACT OR THE OPERATING RULES

1.4.1 Words and expressions defined have the same meaning in these Rules

Words and expressions defined in the Corporations Act or the Operating Rules will unless otherwise defined or specified in these Rules or the contrary intention appears, have the same meaning in these Rules. When a term is defined in both the Operating Rules and the Corporations Act, the meaning in the Operating Rules prevails.

Amended 01/08/10

1.5 HEADINGS AND INTRODUCTORY REVIEW

1.5.1 Headings and introductory overview for convenience of reference only

Headings and the introductory overview at the beginning of each Section are for convenience of reference only and do not affect the interpretation of the Rules or the Procedures.

Amended 01/08/10

1.6 CONDUCT, ACTS AND OMISSIONS

1.6.1 References to conduct or doing any act or thing

In these Rules:

- (a) a reference to conduct or engaging in conduct includes a reference to doing, refusing to do or omitting to do, any act, including the making of, or the giving effect to a provision of, an agreement; and
- (b) unless the contrary intention appears, a reference to doing, refusing or omitting to do any act or thing includes a reference to causing, permitting or authorising:
 - (i) the act or thing to be done; or
 - (ii) the refusal or omission to occur.

1.6.2 Conduct by officers, employees or agents

In these Rules, conduct engaged in on behalf of a person:

- (a) by an officer, Employee, or other agent of the person, and whether or not within the scope of the actual or apparent authority of the officer, Employee, or other agent; or

- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an officer, Employee, or other agent of the person, and whether or not the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer, Employee, or other agent,

is deemed to have been engaged in also by the person.

1.6.3 State of mind of a person

If for the purposes of these Rules in respect of conduct engaged in by a person, it is necessary to establish the state of mind of the person, it is sufficient to show that an officer, Employee, or other agent of the person, being an officer, Employee, or other agent by whom the conduct was engaged in and whether or not within the scope of the actual or apparent authority of that officer, Employee, or other agent, had that state of mind.

In this Rule 1.6.3 a reference to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

1.6.4 Construction to promote purpose of Rules

In the interpretation of a Rule, a construction that would promote the purpose or object underlying the Rules (whether that purpose or object is expressly stated in the Rules or not) is to be preferred to a construction which would not promote that purpose or object.

1.7 EXAMPLES AND NOTES

1.7.1 Use of examples and notes

If these Rules include an example of, or a note about, the operation of a Rule:

- (a) the example or note is not to be taken to be exhaustive; and
- (b) if the example or note is inconsistent with the Rule, the Rule prevails.

1.8 CHANGE OF NAME

1.8.1 Reference to a body or office under a former name

If:

- (a) the name of a body is changed in accordance with the law (whether or not the body is incorporated); or
- (b) the name of an office is changed by law,

then a reference in these Rules to the body or office under any former name, except in relation to matters that occurred before the change took effect, is taken as a reference to the body or office under the new name.

1.8.2 Change of name of Rulebook

As from the Effective Time, this Rulebook (formerly known as the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook) has been renamed the ASX Enforcement and Appeals Rulebook.

Introduced 01/08/10

1.9 EFFECT OF AMENDMENT TO RULES AND PROCEDURES

1.9.1 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 action taken or incurred in respect of any breach of that Rule or Procedure; or
- (h) affect any investigation, proceeding, enforcement process, appeal process or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, suspension, expulsion or other enforcement action,

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

Amended 01/08/10

1.10 RULES IN FORCE AT TIME OF CONTRAVENTION

1.10.1 Determining a contravention of the Rules

Unless expressly stated otherwise, in determining whether the act or omission of a party constitutes a contravention of the Operating Rules, breach of a condition imposed by ASX under the Operating Rules or constitutes Unprofessional Conduct, the matter will be

determined with regard to the Operating Rules in force at the time of the relevant act or omission.

Amended 01/08/10

1.10.2 Matters ASX will have regard to

Where a Rule provides that ASX may act in a manner which it considers "appropriate", when deciding whether or not to act, and how to act, the relevant ASX Licensee will have regard to the obligations, duties, powers and discretions which the relevant ASX Licensee may have as the holder of, or in connection with, the holding of an Australian market licence under Part 7.2 of the Corporations Act or an Australian CS facility licence under Part 7.3 of the Corporations Act.

1.11 DEFECTS, IRREGULARITIES AND DEFICIENCIES

1.11.1 Notices or Time

A decision or act of ASX under these Rules is not invalidated by any:

- (a) defect;
- (b) irregularity; or
- (c) deficiency,

of notice or time unless:

- (d) a Relevant Person concerned by the defect, irregularity or deficiency requests ASX to resolve that the decision or act is invalid;
- (e) ASX reasonably believes that the defect, irregularity or deficiency has caused or may cause substantial injustice which cannot reasonably be avoided; and
- (f) ASX accordingly resolves that the decision or act is invalid.

Introduced 01/08/10

1.11.2 Validity of actions

An action or inaction by ASX under the Rules may not be challenged on the ground that a Rule, Procedure, direction, decision or requirement of ASX, or any agreement made by ASX, is ultra vires or otherwise invalid.

Introduced 01/08/10

1.11.3 Partial invalidity of Rules

If any of the provisions of the Rules or the Procedures becomes at any time illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability of the remaining provisions of the Rules and the Procedures, and the legality, validity or enforceability of the provision under the law of any other jurisdiction is not affected or impaired in any way.

Introduced 01/08/10

1.12 DEFINITIONS

1.12.1 Definitions

In these Rules and the Procedures, unless the context otherwise requires:

"Alleged Minor Infringement Notice" means the notice referred to in Rule 2.4.1;

Introduced 01/08/10

"Appeal Tribunal" means a tribunal convened in accordance with Rule 3.2;

"Appeal Tribunal Panel" means the panel established in accordance with Rule 3.5.1;

"ASX" means any, some or all of the ASX Licensees (as the context requires);

"ASX Licensee" means any of ASX Limited, ASX Clear Pty Limited (formerly known as Australian Clearing House Pty Limited) ('ASX Clear'), ASX Settlement Pty Limited (formerly known as ASX Settlement and Transfer Corporation Pty Ltd) ('ASX Settlement'), Australian Securities Exchange Limited (formerly known as Sydney Futures Exchange Limited) ('Australian Securities Exchange'), ASX Clear (Futures) Pty Limited (formerly known as SFE Clearing Corporation Pty Limited) ('ASX Clear (Futures)') and Austraclear Limited ('Austraclear') (as the context requires);

Amended 01/08/10

"Board" has the same meaning it has in the relevant Operating Rules;

"Business Day" means Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day;

"Commence" means:

- (a) in relation to disciplinary proceedings relating to conduct or a failure under the relevant Old ASX Rules prior to the Effective Time, the provision of a notice by the relevant ASX Licensee to a Regulated Person (as defined in the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook) 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 under the relevant Old ASX Rules prior to the Effective Time, the provision of a notice of appeal by the relevant person pursuant to Rule 3.1 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook.

Amended 01/08/10

"Corporations Act" means the Corporations Act 2001 (Cth), as amended from time to time;

"determination" includes any decision of an interim nature;

"Effective Time" means the date set out in the Procedures;

“Employee” in relation to a person includes a director, employee, officer, agent, representative, consultant or adviser of that person, or an independent contractor who acts for or by arrangement with that person;

“Enforcement Notice” means the notice referred to in Rule 2.5.1

Introduced 01/08/10

“Error” has the same meaning it has in the relevant Operating Rules;

“Issuer” has the same meaning it has in the ASX Settlement Operating Rules;

“Old ASX Rules” means any, some or all (as the context requires) of the following rules of the relevant ASX Licensee which were in force before the Effective Time:

- (a) ASX Market Rules;
- (b) ACH Clearing Rules;
- (c) ASTC Settlement Rules;
- (d) Operating Rules of Sydney Futures Exchange;
- (e) Clearing Rules of SFE Clearing; and/or
- (f) Austraclear Regulations;

Amended 01/08/10

“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;

Introduced 01/08/10

“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 Appeals Rulebook, irrespective of whether it is convened before or after the Effective Time;

Amended 01/08/10

“Open Contract” means any contract under the relevant Operating Rules;

“Operating Rules” mean any, some or all (as the context requires) of the following:

- (a) ASX Operating Rules (known as the ASX Market Rules prior to the Effective Time);
- (b) ASX Listing Rules;
- (c) ASX Clear Operating Rules (known as the ACH Clearing Rules prior to the Effective Time);

- (d) ASX Settlement Operating Rules (known as the ASTC Settlement Rules prior to the Effective Time);
- (e) ASX 24 Operating Rules (known as the Operating Rules of Sydney Futures Exchange prior to the Effective Time);
- (f) ASX Clear (Futures) Operating Rules (known as the Clearing Rules of SFE Clearing prior to the Effective Time); and/or
- (g) Austraclear Regulations;

Amended 01/08/10

“Participant” means any (as the context requires) of the following:

- (a) a Market Participant as defined in the ASX Operating Rules;
- (b) a Participant as defined in the ASX Clear Operating Rules;
- (c) a Participant as defined in the ASX Settlement Operating Rules;
- (d) a Trading Participant as defined in the ASX 24 Operating Rules;
- (e) a Clearing Participant as defined in the ASX Clear (Futures) Operating Rules; and/or
- (f) a Participant as defined in the Austraclear Regulations,

unless otherwise provided or required under the relevant Operating Rules or these Rules;

Amended 01/08/10

“Procedures” mean the Procedures of the ASX Enforcement and Appeals Rulebook;

Amended 01/08/10

“Product” means any product offered by the relevant ASX Licensee to be traded, cleared, settled or deposited, as the context requires and, in relation to ASX Clear, includes an “Approved Market Operator” as defined in the ASX Clear Operating Rules;

Amended 01/08/10

“Relevant Person” means any (as the context requires) of the following:

- (a) a Market Participant, Warrant-Issuer or AQUA Product Issuer as defined in the ASX Operating Rules;
- (b) a Regulated Person or an Affiliate Based CP as defined in the ASX Clear Operating Rules or a person applying to ASX Clear for admission as a Participant pursuant to Rule 3.1 of the ASX Clear Operating Rules;
- (c) a Facility User as defined in the ASX Settlement Operating Rules or a person applying to ASX Settlement for admission as a Participant pursuant to Rule 4.2 of the ASX Settlement Operating Rules or an affected person described in Rule 10.4.9 of the ASX Settlement Operating Rules or a person that applied for

admission of the relevant Approved Financial Products pursuant to Rule 11.1.3 of the ASX Settlement Operating Rules;

- (d) an entity as defined in the ASX Listing Rules;
- (e) a Trading Participant as defined in the ASX 24 Operating Rules;
- (f) a Clearing Participant or a Representative as defined in the ASX Clear (Futures) Operating Rules or a person applying to ASX Clear (Futures) for admission as a Clearing Participant pursuant to Rule 4 of the ASX Clear (Futures) Operating Rules; and/or
- (g) a Participant as defined in Rule 1.1 of the Austraclear Regulations or an Applicant as defined in Rule 2.1 of the Austraclear Regulations,

unless otherwise provided or required under the relevant Operating Rules or these Rules;

Amended 01/08/10

“Rules” or “Rulebook” means the ASX Enforcement and Appeals Rulebook;

Amended 01/08/10

“Submission Notice” means the notice referred to in Rule 2.3.1 (c);

Introduced 01/08/10

“taking action” includes commencing or continuing any inquiry or investigation, holding any hearing or engaging in any procedure;

“Transaction” means any transaction under the relevant Operating Rules;

“Tribunal” means an Appeal Tribunal;

Amended 01/08/10

“Tribunal Panel” means the Appeal Tribunal Panel.

Amended 01/08/10

1.13 TRANSITIONAL PROVISIONS

1.13.1 Transitional Provisions

Following the Effective Time:

- (a) without limiting Section 2 of these Rules, ASX (as applicable) will have jurisdiction pursuant to this Rulebook and may take any enforcement action under the Rules in respect of a Relevant Person concerning any conduct or failure under:
 - (i) the Operating Rules, where that conduct or failure occurred on or after the Effective Time; or

- (ii) the Operating Rules and the Old ASX 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 became aware of, or should have become aware of, that conduct or failure;

- (b) without limiting Section 3 of these Rules, the Appeal Tribunal will have jurisdiction pursuant to this Rulebook and may conduct appeal proceedings (including the holding of any hearings or engaging in any procedures) under these Rules in respect of a Relevant Person concerning any conduct or failure under:
 - (i) the Operating Rules, where that conduct or failure occurred on or after the Effective Time; or
 - (ii) the Operating Rules and the Old ASX 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 became aware of, or should have become aware of, that conduct or failure;

- (c) without limiting Rule 1.12 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook, ASX (as applicable) will continue to have jurisdiction pursuant to the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook and may take disciplinary action under that rulebook after the Effective Time in respect of a Regulated Person (as defined in that rulebook) concerning any conduct under, any failure to comply with, or any engagement in Unprofessional Conduct under, the Old ASX Rules, where that conduct or failure occurred prior to the Effective Time, irrespective of when ASX became aware of, or should have become aware of, that conduct or failure;
- (d) without limiting Rule 1.12 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook, 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 (as defined in that rulebook) concerning any conduct under, any failure to comply with, or any engagement in Unprofessional Conduct under, the Old ASX 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 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 (as defined in the Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook) 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 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;
- (iii) the indemnities provided by ASX under Rule 3.8 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook continue to apply to the extent relevant to the taking of disciplinary action or the conduct of disciplinary proceedings or appeal proceedings as contemplated under paragraphs (c) and (d);
- (f) Old ASX Rules and the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook continue to apply in respect of the Regulated Person (as defined in the Old Australian Securities Exchange Disciplinary Processes and Appeal Rulebook) to the extent required to give effect to the paragraphs above;
- (g) Nothing in this Rule 1.13 limits the continued operation of rule 1.12 of the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook where disciplinary proceedings or appeal proceedings have Commenced (as defined in the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook) prior to the Effective Time (as defined in the Old Australian Securities Exchange Disciplinary Processes and Appeals Rulebook).

Introduced 01/08/10

1.13.2 Transitional provisions - conduct spanning the 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 and the Appeal Tribunal will have the jurisdiction and may take action or conduct appeal proceedings as referred to in Rules 1.13.1(a) & (b) above;
- (b) Rules 1.13.1(c), (d) and (e) do not apply to such conduct or failure. [New]

Introduced 01/08/10

1.13.3 Appeal Tribunal Panel

For the avoidance of doubt, the Appeal Tribunal Panel established under the Old Australian Securities and Exchange Disciplinary Processes and Appeals Rulebook and in effect immediately prior to the Effective Time, is deemed to have been established in accordance with this Rulebook and be in effect at the Effective Time. [New]

Introduced 01/08/10

1.14 NOTICE & CORRESPONDENCE

1.14.1 Methods of giving notice in writing

Any notice or correspondence that is to be given by a Relevant Person to ASX or an Appeal Tribunal pursuant to these Rules must be forwarded to the address, and in the manner, set out in the Procedures.

Amended 01/08/10

1.14.2 Delivery of notice

For the purposes of Rule 1.14.1, any such notice or correspondence will be taken to have been received at the time and in the manner set out in the Procedures.

Amended 01/08/10

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