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SECTION 3 APPEALS

3.1 DECISIONS THAT MAY BE APPEALED

The following parties may appeal the following decisions to an Appeal Tribunal on the giving of the relevant notice of appeal, within the relevant time and on the payment of any fee, as set out in the Procedures:

3.1.1 ASX Operating Rule Appeals

- (a) A Relevant Person if dissatisfied with a determination of ASX under Section 2 of this Rulebook to issue an Enforcement Notice or any sanction imposed in the Enforcement Notice;
- (b) A Participant if dissatisfied with a decision of ASX to suspend or terminate the admission of the Participant on default grounds under ASX Operating Rule [5160];
- (c) A Warrant Issuer if dissatisfied with a decision of ASX under ASX Operating Rule S10.14.3(g);
- (d) An AQUA Product Issuer if dissatisfied with a decision of ASX under ASX Operating Rule S10A.10.3(g);
- (e) A Market Participant if dissatisfied with:
 - (i) the failure of ASX to refer a dispute to a Dispute Governors Committee under ASX Operating Rule [3216]; or
 - (ii) the actions taken (or the failure to take actions) by ASX under either ASX Operating Rules [3236] or [3237];

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3.1.2 ASX Settlement Operating Rule Appeals

- (a) A Relevant Person if dissatisfied with a determination of ASX Settlement under Section 2 of this Rulebook to issue an Enforcement Notice or any sanction imposed in the Enforcement Notice;
- (b) An applicant against a decision to reject an application to become a Participant under ASX Settlement Operating Rule 4.14.3;
- (c) An Issuer if dissatisfied with the decision to suspend or revoke approval of a class of an Issuer's Financial Products under ASX Settlement Operating Rule 8.4.1(e) or 8.5.4, or a suspension of an Issuer's Financial Products has under ASX Settlement Operating Rule 8.4.1(d) continued for a period of at least 15 Business Days against the revocation under ASX Settlement Operating Rule 8.4.1(e) or 8.5.4 or impending revocation under ASX Settlement Operating Rule 8.5.4 respectively;

- (d) A Settlement Participant or an affected person if dissatisfied with the decision under ASX Settlement Operating Rule 10.4 to:
 - (i) not admit a class of Batch Instruction into DvP Batch Settlement; or
 - (ii) remove a class of Batch Instruction from Batch Settlement or DvP Batch Settlement,
- (e) The relevant person or any Participant (as applicable) if dissatisfied with the decision under ASX Settlement Operating Rule 11.1 to:
 - (i) not admit a class of Instructions into Real Time Gross Settlement; or
 - (ii) remove a class of Instructions from Real Time Gross Settlement,
- (f) An Issuer if dissatisfied with the decision to revoke ASX Settlement approval of the Issuer's Financial Products under ASX Settlement Operating Rule 12.17.4;
- (g) A non-compliant Participant if dissatisfied with a decision of ASX Settlement under ASX Settlement Operating Rule 12.19.1 unless:
 - (i) the non-compliance is in respect of a prohibition or restriction imposed by a State Revenue Authority against the Participant paying stamp duty by lodgement of a periodic return;
 - (ii) in the case of a General Settlement Participant, the Settlement Participant no longer complies with the capacity requirements specified in ASX Settlement Operating Rule 4.10;
 - (iii) in the case of a Settlement Participant which is a Foreign Clearing House:
 - (a) the Settlement Participant no longer complies with the requirement to be appropriately authorised to provide clearing services in the foreign country in which its principal place of business is located; or
 - (b) any necessary regulatory approval granted to the Settlement Participant to allow the Settlement Participant to provide services as a Participant have been withdrawn,
- (h) A Facility User if dissatisfied with a decision to suspend processing of Messages or classes of messages under ASX Settlement Operating Rule 16.3.1(e).

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3.1.3 ASX Clear Operating Rule Appeals

- (a) A Relevant Person if dissatisfied with a determination of ASX Clear under Section 2 of this Rulebook to issue an Enforcement Notice or any sanction imposed in the Enforcement Notice;
- (b) An applicant or Participant (as applicable) if dissatisfied with a decision of ASX Clear to impose a condition under Rule 3.1.4;

- (c) An applicant if dissatisfied with a decision to reject its application for Participant status under ASX Clear Operating Rule 3.9.1;
- (d) A Participant if dissatisfied with a decision of ASX Clear to take steps to restrict access to the Clearing System under ASX Clear Operating Rule 6.3.1 or 6.4.1;
- (da) A Participant if dissatisfied with a decision of ASX Clear under ASX Clear Operating Rule 15.2.1(l) to suspend or terminate the Participant's authority to clear all or any category of Market Transaction;
- (db) A Regulated Person (other than a Participant) if dissatisfied with a decision of ASX Clear under ASX Clear Operating Rule 19.6.2 to suspend or terminate the recognition of the Regulated Person;
- (e) An Affiliate Based CP if dissatisfied with decisions where:
 - (i) an Affiliate Based CP applies for a person to be registered as a New Approved Representative under ASX Clear Operating Rule 22.4.1(e) and ASX Clear decides to refuse to register that person as a New Approved Representative;
 - (ii) an Affiliate Based CP applies for a person to be recognised as a New Affiliate under ASX Clear Operating Rule 22.4.1(e) and ASX Clear decides to refuse to register that person as a New Affiliate;
 - (iii) ASX Clear decides to cancel the registration of an Approved Representative of an Affiliate Based CP.

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3.1.4 ASX Listing Rule Appeals

- (a) An entity if dissatisfied with a decision of ASX to refuse to admit that entity to the official list, or the conditions of admission;
- (b) An entity if dissatisfied with a decision of ASX to refuse to quote the securities of that entity, or the conditions of quotation;
- (c) An entity if dissatisfied with a decision of ASX to refuse to grant a waiver to that entity, or the conditions of a waiver;
- (d) An entity if dissatisfied with a decision of ASX to apply the Listing Rules to that entity (except in relation to a suspension); and
- (e) An entity if dissatisfied with a decision of ASX to remove that entity from the official list.

3.1.5 ASX 24 Operating Rule Appeals

- (a) A Relevant Person if dissatisfied with a determination of Australian Securities Exchange under Section 2 of this Rulebook to issue an Enforcement Notice or any sanction imposed in the Enforcement Notice;

- (b) A Participant if dissatisfied with a decision of Australian Securities Exchange to suspend or terminate the admission of the Participant on default grounds under ASX 24 Operating Rule [5160]; and
- (c) A Participant if dissatisfied with the actions taken (or the failure to take actions) by Australian Securities Exchange under either ASX 24 Operating Rules [3200], [3210] or [3220].

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3.1.6 ASX Clear (Futures) Operating Rule Appeals

- (a) A Relevant Person if dissatisfied with a determination of ASX Clear (Futures) under Section 2 of this Rulebook to issue an Enforcement Notice or any sanction imposed in the Enforcement Notice; and
- (b) An applicant if dissatisfied with the decision to not grant Participant status.

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3.1.7 Austraclear Regulation Appeals

- (a) A Relevant Person if dissatisfied with a determination of Austraclear under Section 2 of this Rulebook to issue an Enforcement Notice or any sanction imposed in the Enforcement Notice;
- (b) An applicant if dissatisfied with the decision to not grant Participant status; and
- (c) A Participant if dissatisfied with a decision of Austraclear under Austraclear Regulation 3.12 to continue an existing suspension of the Participant Status (as defined in the Austraclear Regulations) of the Participant so that the total period of the suspension is more than 10 continuous Business Days (as defined in the Austraclear Regulations) or to terminate a Participant's Participant Status (as defined in the Austraclear Regulations).

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3.2 ASX TO NOTIFY APPEAL TRIBUNAL

3.2.1 ASX to notify Appeal Tribunal

If ASX receives a notice of appeal which complies with the relevant appeal notice provisions under these Rules, ASX must promptly give a copy of that notice to the chairperson of the Appeal Tribunal Panel and an Appeal Tribunal will be convened in accordance with the Procedures.

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3.3 ACTION WHICH MAY BE IMPLEMENTED PENDING APPEAL

3.3.1 Action which may be implemented pending appeal

ASX may implement any action (including the making of any announcement) which it is expressly permitted to do under the relevant Operating Rules before the expiry of the

time for giving a notice of appeal or before the appeal is determined, including, without limitation, any action ASX considers appropriate having regard to its obligations as an operator of a licensed facility.

3.4 ACTION WHICH MAY NOT BE IMPLEMENTED PENDING APPEAL

3.4.1 Action which may not be implemented pending appeal

Subject to any action taken in accordance with Rule 3.3, ASX may not implement or announce a decision to:

- (a) take enforcement action against a Relevant Person under Rule 2.5;
- (b) terminate a Participant's admission as a Participant under the relevant Operating Rules; or
- (c) terminate a Relevant Person's recognition as a Relevant Person under the relevant Operating Rules,

before the expiry of the time for giving a notice of appeal (in circumstances where this Rulebook provides for the appeal of the relevant decision) or, if a notice of appeal is given in accordance with this Rulebook, before the appeal is determined.

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3.5 APPEAL TRIBUNAL

3.5.1 Appeal Tribunal Panel

ASX will establish an Appeal Tribunal Panel comprising of such number of persons as set out in the Procedures and as nominated by ASX from time to time.

3.5.2 Role of Appeal Tribunal

There will be an Appeal Tribunal for the purposes of conducting an appeal against a decision of ASX in respect of which the Operating Rules or these Rules expressly provide for an appeal direct to an Appeal Tribunal.

An Appeal Tribunal is bound by, and shall enforce the provisions of, the Operating Rules.

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3.5.3 Chairperson

ASX will appoint one or more chairpersons for the period determined by ASX with such qualifications as are set out in the Procedures.

3.5.4 Composition of Appeal Tribunal

An Appeal Tribunal will, when it is meeting, comprise the chairperson or, in that person's absence, a person nominated by the chairperson who will act as chairperson of the proceedings, and such number of persons set out in the Procedures, as selected by the

chairperson of the proceedings from the Appeal Tribunal Panel. There can be more than one Appeal Tribunal meeting at any one time.

A person who participated in the making of the decision under appeal must not be a member of an Appeal Tribunal constituted to hear the appeal unless otherwise set out in the Procedures.

3.5.5 Proceeding date

The chairperson of the proceedings will appoint a date, time and place for the appeal proceeding and cause notice of the date and any other information to be given to the parties as set out in the Procedures.

An Appeal Tribunal may vacate the proceeding date and appoint a substitute proceeding date in accordance with the Procedures and may adjourn and re-convene its proceedings as it thinks fit.

3.5.6 ASX may consolidate appeal proceedings

Subject to Rules 2.6.1 and 2.7.1, if:

- (a) enforcement actions of two or more ASX Licensees are consolidated under Rule 2.6.1 or multiple enforcement actions are taken by an ASX Licensee against two or more Relevant Persons in respect of the same or similar circumstances under Rule 2.7.1; and
- (b) the Relevant Person appeals the decision of two or more ASX Licensees or two or more Relevant Persons appeal a decision of an ASX Licensee under these Rules to an Appeal Tribunal,

each ASX Licensee and the Appeal Tribunal need not exercise their powers separately but may exercise those powers together.

Without limiting this Rule, persons constituting an Appeal Tribunal appointed to hear the proceedings relating to enforcement action taken by one or more ASX Licensees or against one or more Relevant Persons, may at the same time, hear appeal proceedings relating to another ASX Licensee or Relevant Person in their capacity as members of a Tribunal constituted under these Rules.

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3.6 CONDUCT OF APPEAL TRIBUNAL PROCEEDINGS

3.6.1 Powers of Appeal Tribunal

Unless set out in the Procedures, an appeal will not be conducted as a re-hearing. An Appeal Tribunal may affirm, vary or set aside the appealed decision and any sanction.

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3.6.2 Determination on the Papers

All matters to be considered by an Appeal Tribunal will be assessed on the written submissions of the parties unless an Appeal Tribunal determines to conduct an oral

hearing or either party requests an oral hearing. If either party requests an oral hearing it must do so by no later than the lodgement of its final written submissions.

Where an Appeal Tribunal requests that a Relevant Person appears before it, the process for such appearance shall be as set out in the Procedures. Each party shall bear its own costs of attendance.

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3.6.3 Written submissions

The parties will be given and must comply with such directions as determined by an Appeal Tribunal in relation to written submissions. An Appeal Tribunal may at its discretion, but is not bound to, consider any written submissions which do not comply with the directions of the Appeal Tribunal, including without limitation any written submission that is submitted outside the timeframes determined by the Appeal Tribunal.

3.6.4 Formalities, recording and transcripts

Proceedings will be conducted with as little formality and technicality, and with as much expedition as a proper consideration of the matters before an Appeal Tribunal permits. An Appeal Tribunal may conduct its proceedings as it thinks fit and may record or make a transcript of proceedings (or both) at a proceeding. A copy of any transcript or recording must be made available to ASX and to the other party involved in the proceeding if requested.

3.6.5 Procedural fairness

An Appeal Tribunal will determine each matter on its own merits and must conduct the proceedings without bias and must observe the rules of procedural fairness.

3.6.6 Voting

The decision of an Appeal Tribunal will be determined according to a simple majority of votes of the Appeal Tribunal members. Each member has, and must exercise, a deliberative vote. The chairperson has a deliberative but not a casting vote.

3.6.7 Appeal Tribunal may obtain advice

An Appeal Tribunal may obtain such legal and other advice as it considers appropriate and may have its advisers present at a determination.

3.6.8 Participation in proceedings

An Appeal Tribunal may conduct proceedings without all members of the Appeal Tribunal being in the physical presence of each other, provided that all members involved in the proceedings are able to participate in the proceedings.

3.6.9 Ability of the Appeal Tribunal to award costs or order refund of appeal fee

If an Appeal Tribunal considers that a party to the appeal, or to the enforcement action the subject of the appeal, has acted vexatiously, frivolously or unreasonably, it may order that party to pay to another party to the appeal, the whole or part of the costs and expenses incurred by the other party in the appeal. The Appeal Tribunal may also order

that ASX refund the appeal fee paid to bring the appeal in the circumstances set out in the Procedures.

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3.6.10 Order for costs

An order for costs:

- (a) may be for a specified amount or an unspecified amount;
- (b) if for an unspecified amount, must specify the basis on which the amount is to be determined;
- (c) may specify the terms on which the costs (or the refund of the appeal fee) must be paid.

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3.6.11 Reasons for decision

An Appeal Tribunal must notify ASX and the other party of the decision and the reasons for its decision in writing in such format as it determines in accordance with the timeframe set out in the Procedures.

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3.6.12 Decision final and binding

A decision of an Appeal Tribunal in relation to the matter the subject of the appeal, and any decision as to costs, is final and binding on ASX and the other party.

3.7 PROVISION OF INFORMATION BY ASX TO TRIBUNAL

3.7.1 ASX may provide information

ASX will be entitled to inform a Tribunal and such persons acting for or on behalf of ASX, as it sees fit, of any matter relating to any act, omission or conduct in respect of which a Relevant Person may be or has been penalised under these Rules.

Without limiting the generality of this Rule, information which may be communicated includes any information which may be relevant to any investigation, or proposed investigation.

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3.7.2 Relevant Person to be informed

Where information is communicated pursuant to Rule 3.7.1 the Relevant Person to whom the act, omission or conduct the subject of that information is attributable will be:

- (a) informed of:
 - (i) the provision of that information;

- (ii) the information; and
- (b) given a reasonable opportunity to make submissions to a Tribunal in respect of that information.

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3.8 INDEMNITY FOR TRIBUNAL MEMBERS AND ASX OFFICERS

3.8.1 Limitation of liability and indemnity

ASX indemnifies each member of an Appeal Tribunal and each officer of ASX and each person acting for or on behalf of ASX against any liability arising in or in connection with the determination of a proceeding, other than any liability that by law would attach to the member, officer or person in respect of any negligence, default, breach of duty or breach of trust of which the member, officer or person may be guilty in relation to ASX.

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3.8.2 Indemnity for certain legal proceedings

Notwithstanding anything contained in Rule 3.8.1, ASX indemnifies each member of an Appeal Tribunal and each officer of ASX and each person acting for or on behalf of ASX against any liability incurred by the member, officer or person in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the member, officer or person or in which the member, officer or person is acquitted or in connection with any application in relation to any such proceedings in which relief is granted under the Corporations Act to the member, officer or person by any court of competent jurisdiction.

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