



Australian CS Facility Licence (Australian Clearing House Pty Limited) (Additional Conditions) Notice 2005 (No. 1)

I, CHRIS PEARCE, Parliamentary Secretary to the Treasurer, issue this Notice under section 825A of the *Corporations Act 2001*.

Dated 14TH MARCH 2005

A handwritten signature in black ink, appearing to read 'Chris Pearce', written in a cursive style.

Parliamentary Secretary to the Treasurer

1 Name of Notice

This Notice is the *Australian CS Facility Licence (Australian Clearing House Pty Limited) (Additional Conditions) Notice 2005 (No. 1)*.

2 Commencement

This Notice commences on 31 March 2005.

3 Additional conditions on Australian CS Facility Licence (Australian Clearing House Pty Limited) 2002

Schedule 1 sets out additional conditions that are imposed on the *Australian CS Facility Licence (Australian Clearing House Pty Limited) 2002*, as varied by:

- (a) *Australian CS Facility Licence (Options Clearing House Pty Limited) Variation Notice 2002 (No. 1)*; and
- (b) *Australian CS Facility Licence (Options Clearing House Pty Limited) Variation Notice 2004 (No. 1)*.

Schedule 1 Conditions

(section 3)

1 Limitation on business of Australian Clearing House Pty Limited

Australian Clearing House Pty Limited (*ACH*) must not engage in a business other than the provision of a clearing and settlement facility and any activities incidental or ancillary to the provision of a clearing and settlement facility, including carrying on the function of a central counterparty in relation to certain transactions.

2 Consent of Minister for certain actions

ACH must not, without first obtaining the consent in writing of the Minister, consider a motion (at a directors' meeting or at a general meeting) to make a resolution:

- (a) to wind up voluntarily, or to appoint a liquidator for the purpose of winding up its affairs; or
- (b) to change its constitution as it relates to:
 - (i) the entitlement of a member to payment of a dividend; or
 - (ii) the return of capital to a member.

3 Use of funds

- (1) ACH must not, without first obtaining the consent in writing of the Minister, consider a motion (at a directors' meeting or at a general meeting) to make a resolution to use funds paid to it under a direction under section 891A of the Act for any of the following:
 - (a) a capital reduction, other than a reduction that reflects the use of the funds for clearing and settlement support;
 - (b) a share buy-back;
 - (c) the provision of financial assistance by ACH to a person acquiring shares in ACH;
 - (d) a scheme of arrangement.
- (2) ACH must not, without first obtaining the consent in writing of the Minister, take action to use funds paid to it under a direction under section 891A of the Act that are held in a restricted capital reserve for a purpose other than clearing and settlement support.
- (3) ACH may use funds paid to it under a direction under section 891A of the Act for clearing and settlement support without obtaining the consent in writing of the Minister.

4 Indemnity

- (1) ACH must indemnify the body corporate nominated under section 890A of the Act as the Securities Exchanges Guarantee Corporation against:
- (a) any claim for compensation on the National Guarantee Fund of a kind mentioned in regulation 4 of the *Corporations Amendment Regulations 2005 (No. 2)*; and
 - (b) if the *Corporations Amendment Regulations 2005 (No. 2)* are disallowed, or are taken to have been disallowed, by either House of the Parliament in whole or part — any claim for compensation on the National Guarantee Fund that:
 - (i) relates to an event that happens on or after the date of disallowance or deemed disallowance; and
 - (ii) could not have been made if the disallowance or deemed disallowance had not happened.

Note Regulation 4 of the *Corporations Amendment Regulations 2005 (No. 2)* refers to claims under Division 4 of Part 7.5 of the Act that relate to an event:

- (a) that happens before 31 March 2005 (the date from which compensation arrangements are changed by those Regulations); and
 - (b) for which a claim is made before 30 September 2005.
- (2) In this condition:

National Guarantee Fund means the National Guarantee Fund mentioned in section 889A of the Act.