



ASIC

Australian Securities & Investments Commission

ASIC Market Integrity Rules (APX Market) 2010

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Chapter 1: Introduction

Part 1.1 Preliminary

1.1.1 Enabling legislation

ASIC makes this instrument under subsection 798G(1) of the Corporations Act.

1.1.2 Title

This instrument is *ASIC Market Integrity Rules (APX Market) 2010*.

1.1.3 Commencement

This instrument commences on the later of:

- (a) the day the instrument is registered under the *Legislative Instruments Act 2003*; and
- (b) the commencement of Schedule 1 to the *Corporations Amendment (Financial Market Supervision) Act 2010*.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (FRLI) in electronic form: see *Legislative Instruments Act 2003*, s4 (definition of register). The FRLI may be accessed at <http://www.frli.gov.au/>.

1.1.4 Scope of these Rules

These Rules apply to:

- (a) the activities or conduct of the Market;
- (b) the activities or conduct of persons in relation to the Market;
- (c) the activities or conduct of persons in relation to financial products traded on the Market.

Note: There is no penalty for this Rule.

1.1.5 Entities that must comply with these Rules

The following entities must comply with these Rules:

- (a) the Market Operator;
- (b) Market Participants; and
- (c) Other Regulated Entities;

as specified in each Rule.

Note: There is no penalty for this Rule.

1.1.6 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 by the person.

Note: There is no penalty for this Rule.

1.1.7 State of mind of a person

(1) 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 the conduct was within the scope of the actual or apparent authority of that officer, employee, or other agent, had that state of mind.

(2) In subrule (1), 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.

Note: There is no penalty for this Rule.

Part 1.2 Waivers

1.2.1 Waiver of Rules

- (1) ASIC may provide a waiver from all or any of these Rules to an entity.
- (2) A waiver may be given subject to conditions.
- (3) A waiver, and an application for a waiver, must be in writing.
- (4) In this Part 1.2 "waiver" means a waiver under Rule 1.2.1.

Note: There is no penalty for this Rule.

1.2.2 Compliance with conditions

Failure to comply with a condition imposed under Rule 1.2.1 is a contravention of this Rule.

Maximum penalty: \$1,000,000

1.2.3 Period during which relief applies

ASIC may specify that a waiver applies for a specified period.

Note: There is no penalty for this Rule.

1.2.4 Register

(1) ASIC may establish and maintain a register for recording details of relief granted under Rule 1.2.1 and may enter the following details in the register:

- (a) the date that the relief takes effect;
- (b) the person or class of person relieved from the obligation;
- (c) the provision to which the relief applies;
- (d) brief reasons for the relief; and
- (e) any conditions that apply to the relief.

(2) ASIC may publish the register referred to in subrule (1).

Note: There is no penalty for this Rule.

Part 1.3 Notice, notification and service of documents

1.3.1 Market Participant to have email system

A Market Participant must acquire and maintain an operating email system for the purposes of receiving notices under these Rules.

Note: There is no penalty for this Rule.

1.3.2 Methods of giving notice in writing

Unless otherwise specified in a Rule, ASIC may give notice under these Rules by any of the following methods:

- (a) delivering it to the recipient personally;
- (b) leaving it at or by sending it by courier or post to the address of the recipient last notified to ASIC;
- (c) sending it by facsimile to the recipient's facsimile number last notified to ASIC;
- (d) a circular or bulletin addressed to a class of persons and delivered or communicated by any means permitted under this Rule;
- (e) specific email by any method which identifies a person or person's title as addressee and no notice of non-delivery has been received;
- (f) broadcast email by any method which identifies the addressee and which, having regard to all the relevant circumstances at the time, was as reliable as appropriate for the purposes for which the information was communicated.

Note: There is no penalty for this Rule.

Part 1.4 Interpretation

1.4.1 References to time

In these Rules a reference to time is to the time in Sydney, Australia.

Note: There is no penalty for this Rule.

1.4.2 Words and expressions defined in the Corporations Act

Words and expressions defined in the Corporations Act will unless otherwise defined or specified in these Rules or the contrary intention appears, have the same meaning in these Rules.

Note: There is no penalty for this Rule.

1.4.3 Definitions

“**ASIC**” means the Australian Securities and Investments Commission.

“**Australian ADI**” has the meaning given by section 9 of the Corporations Act.

“**Authorised Person**” means a natural person who is an employee (or similar) of the Market Participant and is permitted by the Market Participant to submit Orders to the Market Operator.

“**Bid**” means an offer to purchase a quantity of Securities at a price.

“**Bidder**”

- (a) in relation to a takeover bid, has the same meaning as in section 9 of the Corporations Act; and
- (b) means in relation to a Foreign Takeover or a Scheme, the entity or entities which is or are in a similar position to a Bidder under a takeover Bid.

“**Business Day**” means a day that is not a Saturday, Sunday, New Year’s Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and any other day that the Market Operator notifies Market Participants is not a business day.

“**Chinese Walls**” means arrangements that could reasonably be expected to ensure that Inside Information known to persons in one part of the business of a Market Participant is not communicated to persons in other parts of the business of the Market Participant, being arrangements which satisfy the requirements of paragraph 1043F(b) of the Corporations Act.

“**Convertible**” includes exercisable.

“**Corporations Act**” means the *Corporations Act 2001* (Cth).

“**Director**” means a director of a Market Participant.

“Equity Security” means:

- (a) a share (other than a share which is a Fixed Interest Security) in a body (other than a body which is Property Entity);
- (b) an interest (other than an interest which is a Fixed Interest Security) in a managed investment scheme (other than a managed investment scheme which is a Property Entity);
- (c) a legal or equitable right or interest in a Security covered by paragraph (a) or (b);
- (d) an option to acquire, by way of issue, a Security covered by paragraph (a) or (b);
- (e) a financial product which is Convertible into a Security covered by paragraph (a) or (b);
- (f) any Security that the Market Operator classifies as an Equity Security;

but does not include a Security which the Market Operator classifies as a Property Security or Fixed Interest Security.

“Fair Settlement Price” means a price determined in accordance with Rule 3.10.2.

“Family Company” means a corporation:

- (a) controlled by the person or the Immediate Family of the person; or
- (b) in respect of which the person is beneficially entitled to more than 50% of the issued capital.

“Family Trust” a trust in which:

- (a) the person or the Immediate Family of the person is the sole or majority beneficiary; or
- (b) the person has the ability to remove the trustee of the trust and replace that trustee with his or her own nominee.

“Fixed Interest Security” means:

- (a) a redeemable preference share in a body which has a fixed and certain date for redemption;
- (b) a debenture of a body;
- (c) an interest in a managed investment scheme which only invests in mortgages, cash and/or Fixed Interest Securities covered by paragraph (a) or (b); or
- (d) any Securities which are determined by the Market Operator to be Fixed Interest Securities,

but does not include financial products determined by the Market Operator to be Property Securities or Equity Securities.

“Foreign Takeover” in respect of a Listee incorporated or established outside Australia, means an Offer to acquire Equity Securities in the Listee which:

- (a) would, if the Listee was incorporated under the Corporations Act, be required to be made in accordance with section 606 of the Corporations Act; and
- (b) complies with the Corporations Act in the jurisdiction of incorporation or establishment of the Listee.

“**Immediate Family**” in relation to a person means that person’s spouse and any children under the age of 18 years.

“**Inside Information**” means information that is not generally available but, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of Securities of a body corporate and for the purposes of interpreting this definition the provisions of sections 1042A to 1042E of the Corporations Act apply.

“**Listee**” means:

- (a) an entity that has applied for approval (and has not been rejected) by the Market Operator for listee status; or
- (b) an entity that has been admitted to the Official List.

“**Listing Rules**” has the meaning given by section 761A of the Corporations Act.

“**Market**” means the market operated by the Market Operator under *Australian Market Licence (Asia Pacific Exchange Limited) 2004*.

“**Market Listing Rules**” means the Listing Rules of the Market.

“**Market Operator**” means Asia Pacific Exchange Limited (ACN. 080 399 220).

“**Market Operating Rules**” means the Operating Rules of the Market, other than the Market Listing Rules.

“**Market Participant**” means a participant in the Market admitted under the Market Operating Rules.

“**Offer**” means an offer to sell a quantity of Securities at a price.

“**Offer Period**”

- (a) in relation to a takeover bid, has the same meaning as in section 9 of the Corporations Act;
- (b) in relation to a Foreign Takeover, means the period from the date an announcement of intention to make the Foreign Takeover is first received by the Market Operator until the date on which the Foreign Takeover is effected;
- (c) in relation to a Scheme, means the period from the date an announcement of intention to propose a Scheme is first received by the Market Operator until the date on which the Scheme is effected.

“**Official List**” means the official list of the Market.

“**Official Quotation**” means official quotation by the Market Operator.

“**Operating Rules**” has the meaning given by section 761A of the Corporations Act.

“**Order**” means an instruction to purchase or sell Securities, or an instruction to amend or cancel a prior instruction to purchase or sell Securities.

“**Other Regulated Entities**” means entities prescribed by regulations made for the purposes of paragraph 798H(1)(c) of the Corporations Act, that must comply with these Rules.

“**Prescribed Person**” means each of the following:

- (a) a Director of a Market Participant;
- (b) a Representative of a Market Participant;
- (c) a member of the Immediate Family of a Representative of a Market Participant;
- (d) a Family Company or Family Trust of a Representative of a Market Participant;
- (e) a Substantial Holder in the Market Participant acting as Principal;
- (f) any corporation controlled by a Market Participant or a person referred to in paragraphs (a) to (d) above.

“**Principal**” except where a Market Participant is dealing as a trustee of a trust in which the Market Participant has no direct or indirect beneficial interest, a reference to dealing as principal includes a reference to a Market Participant:

- (a) dealing in Securities on behalf of a Director, company secretary or Substantial Holder of a Market Participant;
- (b) dealing in Securities on behalf of a consultant of a Market Participant;
- (c) dealing in Securities on behalf of a member of the Immediate Family of a Director, consultant, company secretary or Substantial Holder of the Market Participant;
- (d) dealing in Securities on behalf of a Family Company or Family Trust of a Director, consultant, company secretary or Substantial Holder of the Market Participant;
- (e) dealing in Securities on behalf of a related body corporate of the Market Participant.

“**Professional Investor**” means a person to whom an Offer of Securities can be made without disclosure in accordance with subsections 708(8), 708(10) or 708(11) of the Corporations Act.

“**Prohibited Conduct**” means in relation to each Market Participant:

- (a) any conduct of the Market Participant which:
 - (i) involves a lack of honesty or fair dealing by a Market Participant in relation to clients or the public; or
 - (ii) involves a substantial or consistent failure to reach professional standards of competence and diligence; and
- (b) each of the following practices:
 - (i) making Bids and/or Offers for Securities with the intention of creating a false or misleading appearance with respect to the market for, or the price of, any Securities;

- (ii) executing an Order which involves no change of beneficial ownership of Securities, except where the Market Participant has no knowledge that executing the Order involves no change of beneficial ownership of Securities;
- (iii) short selling; and
- (iv) cornering.

“Property Entity” means a body or a managed investment scheme which:

- (a) carries on the business of owning or investing in real property; and
- (b) invests only in other entities covered by paragraph (a).

“Property Security” means:

- (a) a share (other than a share which is a Fixed Interest Security) in a body which is Property Entity;
- (b) an interest (other than an interest which is a Fixed Interest Security) in a managed investment scheme which is a Property Entity;
- (c) a legal or equitable right or interest in a Security covered by paragraph (a) or (b);
- (d) an option to acquire, by way of issue, a Security covered by paragraph (a) or (b);
- (e) a financial product which is Convertible into a Security covered by paragraph (a) or (b);
- (f) any Security that the Market Operator classifies as a Property Security;

but does not include a Security which the Market Operator classifies as an Equity Security or a Fixed Interest Security.

“Quotation” in relation to Securities means that, during the course of trading on the Market, information concerning the prices (if any) at which persons have offered to buy or sell those Securities is from time to time recorded on the Trading System.

“Rules” means these Market Integrity Rules.

“Scheme” means:

- (a) a compromise or arrangement within the meaning of section 411 of the Corporations Act; and
- (b) in respect of a Listee incorporated or established outside Australia, any similar form of compromise or arrangement under the law of the jurisdiction of incorporation or establishment which has a similar result to a takeover within the meaning of the Corporations Act.

“Security” means an Equity Security, a Property Security or a Fixed Interest Security.

“Securities Transaction” means a transaction in Securities.

“Selling Market Participant” means the Market Participant which is obliged to deliver Securities and is entitled to receive payment for those Securities.

“Settlement Agent” means the entity that acts as the settlement agent of a Market Participant to perform the settlement obligations of that Market Participant under the Market Operating Rules.

“Substantial Holder” means

- (a) in relation to a company and a trust which is a registered managed investment scheme, a substantial holder under section 671B of the Corporations Act; and
- (b) in relation to a trust which is not a registered managed investment scheme, a person who would be a substantial holder under section 671B of the Corporations Act if references to interests in the scheme in the Corporations Act were references to units.

“Supervising Manager” means a person who is recognised as a supervising manager by the Market Operator.

“Takeover” means:

- (a) a takeover within the meaning of the Corporations Act;
- (b) a Foreign Takeover; and
- (c) a Scheme.

“Target” means:

- (a) in relation to a Takeover within the meaning of the Corporations Act, has the same meaning as in section 9 of that Act;
- (b) in relation to a Foreign Takeover, means the Listee that is the subject of the takeover; and
- (c) in relation to a Scheme, means the entity or entities which are in a similar position to a target company.

“Trading Messages” means those messages submitted to the Market Operator relating to trading functions, such as Orders and the reporting of Orders on the trading system.

“Trading System” means the computer system and associated network operated by the Market Operator in providing a market for the trading of Securities.

Chapter 2: Market Participants

Part 2.1 Market Participant requirements

2.1.1 Requirements

A Market Participant must:

- (a) be a company; and
- (b) ensure that each Director and each person who is, or would be, a Substantial Holder of the Market Participant or its holding company, is of good fame and character and high business integrity.

Maximum penalty: \$1,000,000

Part 2.2 Accounts and records

2.2.1 Market Participant must maintain records

(1) A Market Participant must maintain records in sufficient detail to show particulars of:

- (a) client agreement documentation for the opening of accounts, setting out:
 - (i) the client name;
 - (ii) the client address to which contract notes to be sent;
 - (iii) telephone, facsimile and email contact details (if any);
- (b) all monies received or paid by the Market Participant, including trust account receipts and payments;
- (c) all Orders received for the purchase or sale of Securities including details of:
 - (i) the identity of the person who received the Order;
 - (ii) the date and time that the Order was received;
 - (iii) the name of the natural person placing the Order (unless that person is the client);
 - (iv) the name of the client;
 - (v) a description of and number of Securities to be bought and sold;
 - (vi) the price limit or price related instructions;
 - (vii) the time limit on the Order (if any);
 - (viii) whether or not any advice was given to the client in connection with the Order; and
 - (ix) any other relevant instructions;

and which must be serially numbered and retained for 7 years whether or not the Order is executed;

- (d) all purchases and sales of Securities as Principal by the Market Participant and the charges and credits arising from them;
- (e) All transactions by the Market Participant with or for the account of:
 - (i) each of the following parties;
 - (A) a Director of the Market Participant, a spouse of such a Director, or a relative of such Director or spouse;
 - (B) a director of a related body corporate of the Market Participant, a spouse of such a director, or a relative of such director or spouse;
 - (C) an employee of the Market Participant, a spouse of such an employee, or a relative of such an employee or spouse;
 - (D) a trustee of a trust under which the Market Participant or a person referred to in paragraphs (i) to (iv), whether individually or collectively, has a beneficial interest of not less than 30% of the net assets of the trust;
 - (E) a corporation where one or more persons referred to in paragraphs (i) to (v), either individually or collectively, has a beneficial interest in share in the body corporate which has a nominal value of not less than 30% of the nominal value of issued capital of the body corporate;
 - (F) a corporation in which the Market Participant has a relevant interest in not less than 30% of the issued voting shares;
 - (G) a corporation which holds a relevant interest in not less than 30% of the issued voting shares of the Market Participant; and
 - (H) a Supervising Manager of that Market Participant; and
 - (ii) other Market Participants.
- (f) all income from commissions, interest and other sources and all expenses, commissions and interest paid;
- (g) all assets and liabilities, including contingent liabilities of the Market Participant;
- (h) all Securities which are the property of the Market Participant, showing with whom they are deposited and, if held otherwise than by the Market Participant, whether they have been lodged as collateral security for loans or advances;
- (i) all Securities which are not the property of a Market Participant but for which that Market Participant or any nominee controlled by it is accountable, showing by whom and for whom those Securities are held and:
 - (i) in respect of those which are held for safe custody—details sufficient to identify those Securities;
 - (ii) in respect of those which are deposited with any person or firm or corporation as collateral security for loans or advances made to the Market Participant—details sufficient to identify those Securities; and
- (j) all underwriting agreements and transactions entered into by the Market Participant.

(2) All Securities held for safe custody must be registered either in the name of the client or the Market Participant's nominee.

(3) The deposit of Securities with any person or firm or corporation as collateral security for loans or advances made to the Market Participant must be authorised in writing by the owner of the Securities or another person lawfully entitled to give that authorisation and the written authority must specify the period for which the Securities may be deposited.

(4) The Market Participant must retain copies of the documentation referred to in this Rule, and all trade confirmations, for not less than seven years.

(5) This Rule applies, to the extent applicable, not only to records of the Market Participant's principal office but also to those of any branch office and to any nominee company beneficially owned and operated by a Market Participant for the purpose of conducting the business of the Market Participant.

Maximum penalty: \$100,000

Part 2.3 Trust accounts

2.3.1 Trust account requirement

A Market Participant must open and maintain at least one trust account in accordance with the Corporation Act.

Maximum penalty: \$1,000,000

2.3.2 Trust account withdrawals

Any deposit or withdrawal of funds from a trust account must comply with the Corporations Act.

Maximum penalty: \$1,000,000

2.3.3 Afterhours dealings with trust monies

All monies which are required under the Corporations Act to be paid into a trust account, but which are received by the Market Participant after business hours, must be paid into the trust account on the first Business Day following the date of receipt.

Maximum penalty: \$1,000,000

2.3.4 Market Participant borrowing

A Market Participant borrowing money in connection with the financial services business carried on by the Market Participant must have deposited the money within the time

specified in Rule 2.3.3 to the Market Participant's separate trust account with an Australian ADI that contains no money other than money lent to the Market Participant, until and unless the Market Participant receives from the lender executed loan documentation which specifies that the Market Participant is not obliged to hold the money in trust.

Maximum penalty: \$1,000,000

2.3.5 Trial balances

A Market Participant must ensure not later than the fourteenth business day of every month, that the books of account are in balance as at the end of the immediate preceding month, and a record of the monthly trial balances must be retained by the Market Participant until such time as each succeeding audit under the Corporations Act is completed.

Maximum penalty: \$1,000,000

Chapter 3: Trading responsibility of Market Participants

Part 3.1 Trading Messages

3.1.1 Market Participant responsibility for Trading Messages

(1) A Market Participant is responsible for each Trading Message submitted by that Market Participant to the Market Operator.

(2) Without limiting subrule (1), a Market Participant is responsible for errors contained in its Trading Messages and is responsible for Trading Messages originating from the Market Participant which are submitted in error or without the authority of the Market Participant.

Note: There is no penalty for this Rule.

3.1.2 Market Participant deemed to have submitted Trading Messages of Authorised Persons

If a Trading Message is submitted by an Authorised Person of a Market Participant, that Trading Message is deemed for all purposes under these Rules to have been submitted with the authority of the Market Participant.

Note: There is no penalty for this Rule.

Part 3.2 Market Participant compliance capacity

3.2.1 Organisational and technical resources

A Market Participant must have and maintain the necessary organisational and technical resources to ensure that:

- (a) Trading Messages submitted to the Market Operator by the Market Participant do not interfere with the efficiency and integrity of the Market; and
- (b) the Market Participant at all times complies with these Rules.

Maximum penalty: \$1,000,000

3.2.2 Systems to determine information

Without limiting Rule 3.2.1, a Market Participant must have systems in place to determine at all times the following information about Trading Messages:

- (a) the Order that corresponds to a Trading Message;
- (b) the identity and capacity of the person placing each Trading Message; and

- (c) whether the Trading Message was submitted by the Market Participant acting as Principal or as agent for a client.

Maximum penalty: \$1,000,000

Part 3.3 Orderly Market

3.3.1 Orderly market requirement

A Market Participant must ensure that it transacts business on the Market so as to maintain an orderly market at all times.

Maximum penalty: \$1,000,000

3.3.2 Prevention of manipulative trading

A Market Participant must not make a Bid or Offer for, or deal in, Securities on the Market which would result in a breach of sections 1041A, 1041B or 1041C of the Corporations Act by the Market Participant or a client of the Market Participant.

Maximum penalty: \$1,000,000

3.3.3 Records and identification of Order source

Without limiting any other Rule, a Market Participant must maintain for a period of seven years, records of the matters referred to in Rule 3.2.2.

Maximum penalty: \$100,000

Part 3.4 Dealings in Securities of Listees for which Official Quotation sought

3.4.1 Prohibition

Except as permitted by Rule 3.4.2, a Market Participant is prohibited, either in its own office or elsewhere, from making quotations or dealing in a new issue or placement of Securities (except Fixed Interest Securities):

- (a) made for the purpose of qualifying a Listee for admission to the Official List of Market Operator; or
- (b) for which Official Quotation will be sought,

until such Securities have been granted Official Quotation.

Maximum penalty: \$100,000

3.4.2 Exception

The exceptions to Rule 3.4.1 are:

- (a) a Market Participant may underwrite or sub-underwrite a new issue or placement of Securities;
- (b) a Market Participant may dispose of Securities if those Securities comprise an underwriting or sub-underwriting shortfall;
- (c) where the Securities have been issued on a pro rata basis to security holders;
- (d) where a Listee acquires assets and as part or full consideration, issues new Securities (except Fixed Interest Securities) to the vendor and the Market Participant:
 - (i) has made a prior firm arrangement with the vendor to place these Securities as soon as they are issued;
 - (ii) ensures that the details of the issue to the vendor are advised to the Market Operator by the Listee as soon as practicable after the Securities are issued;
- (e) where a Market Participant:
 - (i) makes a placement of new Securities (except Fixed Interest Securities) for which Official Quotation will be sought, and the Market Participant ensures that all investors accepting the Securities are informed in writing that Market Participants cannot deal in the Securities either as Principal or agent until Official Quotation is granted in respect of those Securities; or
 - (ii) accepts selling Orders in Securities (except Fixed Interest Securities) for which Official Quotation will be sought, and the Market Participant takes all reasonable steps to ensure that the Securities are not sold before the Securities have been granted Official Quotation.

Note: There is no penalty for this Rule.

Part 3.5 Trading halts

3.5.1 Where a trading halt declared

If the Market Operator grants a trading halt, each Market Participant must refer all Orders in relation to the Securities of that Listee to the relevant clients for new instructions as soon as practicable.

Maximum penalty: \$100,000

3.5.2 Market Participant obligations if Security suspended

If the Market Operator suspends the Securities of a Listee from trading on the Trading System for any reason each Market Participant must refer all Orders in relation to those Securities to the relevant clients for new instructions.

Maximum penalty: \$100,000

Part 3.6 Takeovers

3.6.1 Announcement

(1) In addition to the information required by the Corporations Act, a Market Participant must include the following information in an Announcement to the Market Operator in relation to a market bid:

- (a) the number and class of shares in the Target the subject of the market bid;
- (b) the price offered for Securities in the Target the subject of the market bid;
- (c) the date of the commencement and conclusion of the Offer Period;
- (d) the number of Securities in the Target that the Bidder is entitled to immediately prior to the announcement;
- (e) a statement as to whether or not the Bidder intends to acquire shares in the Target on the Market during the day of the Announcement and the 14 days thereafter at the price specified in the announcement or at a higher price;
- (f) if the Bidder does not intend to acquire all the shares offered on the Market, the maximum number of such shares the Bidder will acquire during that period;
- (g) the latest time the Market Participant will accept offers to sell shares in the Target.

(2) Where the offer Period is extended, the Market Participant must include in the Announcement of that extension the latest time that the Market Participant will accept Offers to sell shares in the Target under the extended Offer Period.

Maximum penalty: \$100,000

3.6.2 Announcement requirement

A Market Participant acting on behalf of a Bidder in relation to a market bid must announce to the Market Operator:

- (a) an increase to the offer price;
- (b) an extension of the Offer Period;
- (c) a withdrawal of the market bid;
- (d) any other variation to the market bid in accordance with the Corporations Act; or
- (e) if the Market Participant ceases to act on behalf of the Bidder.

Maximum penalty: \$100,000

Part 3.7 Acquisition of shares

3.7.1 Restrictions during bid period

When a Market Participant is acting on behalf of a Bidder and the Bidder has:

- (a) made an off-market bid in respect of a class of shares in a Target; or
- (b) made a market bid in respect of a class of shares in a Target,

the Market Participant must not on behalf of the Bidder offer to buy or buy shares of that class in the Target during the bid period at a price per share which is different from the amount of any consideration:

- (c) which is payable (or deemed under the Corporations Act to be payable) under the off-market bid; or
- (d) which has been specified (or deemed under the Corporations Act to have been specified) in the Announcement,

as the case may be, until an Announcement of the varied price has been given to the Market Operator.

Maximum penalty: \$100,000

3.7.2 Restrictions where a second announcement

Where shares of a Target are the subject of a takeover bid, a Market Participant that makes an announcement of a second (or subsequent) and competing Takeover for shares of that Target must not acquire on behalf of the Bidder (its client) any shares in that Target until the Market is informed of the contents of the second (or subsequent) announcement.

Maximum penalty: \$100,000

Part 3.8 Prohibition on advice to client in some instances

3.8.1 Client definition

For the purposes of Rules 3.8.2 and 3.8.3, “client” includes a security holder in a Market Participant.

Note: There is no penalty for this Rule.

3.8.2 Prohibition of advice where in possession of Inside Information

Subject to Rule 3.8.3, where, as a result of its relationship with a client, a Market Participant is in possession of Inside Information, that Market Participant must not give advice to another client of a nature that would damage the interest of either of those clients.

Maximum penalty: \$1,000,000

3.8.3 Chinese Walls exception

Rule 3.8.2 does not apply where a Market Participant has Chinese Walls in place and the person advising a client is not in possession of the Inside Information.

Note: There is no penalty for this Rule.

Part 3.9 Confirmations

3.9.1 Confirmation requirement

In respect of each purchase or sale of Securities executed for a client of a Market Participant, the Market Participant must confirm the transaction in accordance with section 1017F of the Corporations Act.

Maximum penalty: \$100,000

3.9.2 Electronic confirmation

A Market Participant must not dispatch electronically the confirmation to a client and/or the Market Participant under these Rules, unless the client has consented to electronic dispatch and that consent has not been withdrawn.

Maximum penalty: \$100,000

3.9.3 Written record

A Market Participant must keep a written record of a consent or withdrawal of consent by a client to the electronic dispatch of confirmations under Rule 3.9.2.

Maximum penalty: \$1,000,000

3.9.4 Confirmation documentation

Except in the case of transactions in Securities identified under the Market Operating Rules as deferred delivery the confirmation must also have reproduced on it:

- (a) in the case of a sale:
 - (i) the date by which the client must provide all documents and security holder information (including the holder identification number), and, if applicable, security holder reference number; and
 - (ii) the date on which the net consideration to the client falls due; or
- (b) in the case of a purchase, the date by which the client must provide the consideration specified in the confirmation, required by the Market Participant for the transaction to meet its settlement obligations.

Maximum penalty: \$100,000

3.9.5 Identification of the Market Participant requirement

The confirmation made under these Rules must identify the Market Participant which executed the purchase or sale.

Maximum penalty: \$100,000

3.9.6 Endorsement requirement

Where Securities are sold to clients pursuant to Rule 3.13.1, the confirmation must be endorsed with a statement to that effect.

Maximum penalty: \$100,000

3.9.7 Restriction on giving advice

Where the provisions of Rule 3.14.1 apply and the Market Participant advises the selling Market Participant that it is acting for the Bidder(s), and that it was unable to give the selling Market Participant advice in respect of the proposed sale, the confirmation must be endorsed with a statement indicating that the Market Participant was unable to give advice to the selling Market Participant and that no advice was given.

Maximum penalty: \$100,000

Part 3.10 Corners

3.10.1 Actions where a corner exists

When, in the opinion of ASIC, a person or company or two or more persons and/or companies acting in concert, have acquired such control of a Security admitted to Quotation by the Market Operator, that the Security cannot be obtained for delivery on existing contracts ("affected contracts") except at prices or on terms arbitrarily dictated by such persons and/or companies which are unfair, harsh, or unconscionable, ASIC may, for the purpose of enabling equitable settlement to be effected on the affected contracts:

- (a) postpone the times for deliveries on affected contracts; and
- (b) declare that if such Security is not delivered on any affected contract requiring delivery, on or before the time to which delivery has been postponed, the affected contract must be settled by payment to the party entitled to receive the Security or by the credit to such party of a Fair Settlement Price determined in accordance with Rule 3.10.2.

Note: There is no penalty for this Rule.

3.10.2 Arbitrations requirement

If the parties to an affected contract under Rule 3.10.1 do not agree on a Fair Settlement Price and set a date for payment, they must submit the matter in dispute to arbitration.

Maximum penalty: \$100,000

Part 3.11 Expenses

3.11.1 Restrictions on charging out-of-pocket expenses

A Market Participant must not charge a client out-of-pocket expenses incurred in the purchase or sale of Securities where such charge is covered by an increase or reduction in the price.

Maximum penalty: \$1,000,000

Part 3.12 Nominee shareholdings

3.12.1 Beneficial ownership for registration requirement

(1) Where a Market Participant it is not the beneficial owner of Securities, the Market Participant must not register those Securities in its own name or in the name of its Directors or employees.

(2) Securities of which the Market Participant is not the beneficial owner may only be registered in the name of a nominee company:

- (a) that is incorporated in Australia with a name which contains the word “nominee”;
- (b) that has a constitution that precludes the nominee company from beneficially owning any Securities or other property except cash; and
- (c) that is beneficially owned and operated by the Market Participant.

Maximum penalty: \$100,000

Part 3.13 Disclosure of shortfall

3.13.1 Restrictions on offering shares acquired through underwriting

A Market Participant which is required to acquire Securities as underwriter or sub-underwriter must not offer those Securities to a client unless:

- (a) the Market Participant first discloses to the client the closing date of the issue or offering of the Securities and the reasons for the acquisition; or
- (b) 90 days have passed from the closing date.

Maximum penalty: \$100,000

Part 3.14 Takeovers—acting for Bidder; on-market buy-backs

3.14.1 Action for the Bidder; on market buybacks

Where a Market Participant:

- (a) has an order from an Bidder under a Takeover in relation to the Securities the subject of the Takeover; or
- (b) acts for a Listee involved in an on-market buy-back of Securities under the Corporations Act;

the Market Participant must not accept, or transact, an order to sell the relevant Securities unless the Market Participant:

- (c) discloses to the Selling Market Participant of the Securities that;
 - (i) it is acting for the Bidder or the Listee involved in the on-market buy-back; and
 - (ii) it is unable to advise the Selling Market Participant in respect of the proposed sale; and
- (d) does not give the Selling Market Participant any advice in respect of the proposed sale.

Maximum penalty: \$1,000,000

Chapter 4: Conduct of others

Part 4.1 Responsibility for conduct of others

4.1.1 Market Participant responsibility for Supervising Manager

Each Market Participant is responsible under these Rules for the conduct of each Supervising Manager of the Market Participant.

Note: There is no penalty for this Rule.

Part 4.2 Common ownership

4.2.1 Associations and connections

A Market Participant is associated or connected with another Market Participant for the purposes of these Rules if:

- (a) an officer or Representative of the Market Participant is an officer or Representative of the other Market Participant and that person's duties include trading or dealing in Securities;
- (b) the second Market Participant is a related body corporate of the first Market Participant;
- (c) a person who is entitled to shares in the second Market Participant is also entitled to shares in the first Market Participant (unless the first Market Participant is a listed corporation and the shares constitute less than 10% of the shares of that corporation);
- (d) the second Market Participant shares computer facilities with or allows its computer facilities to be linked with, the first Market Participant, unless the proposed sharing or linkage is approved by the Market Operator.

Note: There is no penalty for this Rule.

4.2.2 Where a Director of more than one Market Participant

Where a person is a Director of more than one Market Participant

- (a) that person must nominate one Market Participant as a primary Market Participant and the Director must provide written advice to ASIC of the nominated primary Market Participant; and
- (b) the Director must not request access to the records of Orders referred to at Subrule 2.2.1(c) of Market Participants other than the primary Market Participant, unless the Director has obtained the prior approval of ASIC.

Maximum penalty: \$1,000,000

4.2.3 Market Participant must advise ASIC on becoming associated with or connected with another

A Market Participant must advise ASIC immediately in writing on becoming associated with or connected with another Market Participant under Rule 4.2.1.

Maximum penalty: \$100,000

4.2.4 Market Participant must inform client of business carried out

A Market Participant which is the subject of Rules 4.2.1 to 4.2.4 must fully inform its clients of the type of business carried on by the Market Participant.

Maximum penalty: \$100,000

Part 4.3 Provision of information to ASIC concerning ownership and control

4.3.1 Market Participant must advise ASIC of any change of Directors

A Market Participant must advise ASIC in writing by no later than the next Business Day of any resignation by a Director or appointment of a Director.

Maximum penalty: \$100,000

Part 4.4 Provision of information to ASIC

4.4.1 Market Participant must notify where admission or recognition may be affected

If a Market Participant becomes aware of:

- (a) anything that would create a basis for withdrawing the admission of the Market Participant under the Market Operating Rules; or
- (b) anything in relation to a Supervising Manager of the Market Participant which would create a basis for withdrawing recognition of that Supervising Manager under the Market Operating Rules,

the Market Participant must as soon as practicable give notice in writing to ASIC stating the particulars of what has occurred.

Maximum penalty: \$100,000

4.4.2 Market Participant to notify ASIC where action initiated against them

Market Participants must advise ASIC in writing by no later than the next Business Day after they have been advised by the Market Operator or any regulatory body or any other person who may be authorised pursuant to the Corporations Act, of any action which may be taken against them by the Market Operator, any regulatory body or an authorised person under the Corporations Act.

Maximum penalty: \$100,000

Part 4.5 Engaging in conduct as a Representative

4.5.1 Restrictions on allowing Representative action

A Market Participant must not permit a person to do an act or engage in conduct in relation to the Market as a Representative of a Market Participant unless the person is:

- (a) a Supervising Manager of the Market Participant;
- (b) an employee of the Market Participant; or
- (c) under the supervision and direct control of a Supervising Manager of the Market Participant.

Maximum penalty: \$100,000

Part 4.6 Client Orders—Precedence

4.6.1 Orders and beneficial ownership

(1) In this Part 4.6, a reference to a Market Participant or Prescribed Person placing an order for its own account means that the Securities to be bought or sold are, or will be on the completion of part or all of the Order, beneficially owned by the Market Participant or Prescribed Person.

(2) For the purposes of subrule (1), the Securities beneficially owned by a Market Participant or Prescribed Person include Securities which would appear as assets on the balance sheet or consolidated balance sheet of that Market Participant or Prescribed Person.

Note: There is no penalty for this Rule.

4.6.2 Unexecuted orders

(1) Subject to subrule (3), a Market Participant must not buy or sell Securities on its own account, or on the account of a Prescribed Person, while the Market Participant holds an unexecuted Order on the same terms from a client to deal in such Securities.

(2) For the purpose of subrule (1), a limit Order which cannot be executed owing to price differences is not an uncompleted Order.

(3) Subrule (1) does not apply to a Market Participant which confines its clients to professional investors and which executes each transaction to the best advantage of the professional investor.

Maximum penalty: \$1,000,000

4.6.3 Employee accounts

(1) A Market Participant must ensure that no business is transacted on account of:

- (a) an employee of a Market Participant; or
- (b) an associate of any such employee; or
- (c) the Immediate Family of an employee of a Market Participant; or
- (d) any account in which any such employee has any interest either direct or indirect;

except with the prior written consent of a Director or the appointee of a Director of the Market Participant for each transaction.

(2) Subrule (1) does not apply to business transacted on account of a Director of a Market Participant.

Maximum penalty: \$100,000

4.6.4 Market Participant must not preference own Order

A Market Participant must not allocate a sale or purchase of Securities to fulfil all or part of an Order for a Prescribed Person or for its own account when it has an unfulfilled Order on the same terms for those Securities from a client which is not a Prescribed Person.

Maximum penalty: \$1,000,000