

# **CHAPTER 1**

## **INTERPRETATION AND DEFINITIONS**

**INTERPRETATION AND DEFINITIONS.**

The definitions contained in this **Chapter** have been used throughout the \* Business Rules.

**Please Note:**

The terminology used in the Business Rules reflects the requirements of the *Corporations Act 2001* (“**Act**”) as amended by the *Financial Services Reform Act 2001* (“**FSRA**”).

Until the end of the FSRA transition period on 10 March 2004, the terms set out in Schedule 1 include a reference to those terms as defined in the Act as in force immediately before 11 March 2002 (“**Original Act**”). From 11 March 2004, Schedule 1 will cease to have force and effect.

**INTERPRETATION.**

**PRINCIPLES ON WHICH THE BUSINESS RULES ARE BASED.**

- 1.1.1** The Business Rules are based on the principles set out in the Introduction.
- 1.1.2** Any additions, deletions or other such changes to the Business Rules at a future point in time will not prejudice APX's rights of action against persons under a previous version of the Business Rules.

**APX BROKERS AND AFFILIATES MUST COMPLY WITH SPIRIT, INTENTION AND PURPOSE OF RULES.**

- 1.2.1** \* APX brokers and \* affiliates must comply with the Business Rules as interpreted:
- (a) in accordance with their spirit, intention and purpose;
  - (b) by looking beyond form to substance; and
  - (c) in a way that best promotes the principles on which the Business Rules are based.

Note: The objectives and principles on which the Business Rules are based embody their intention and purpose. See the Introduction.

**EXPRESSIONS USED IN THE CORPORATIONS ACT.**

- 1.3.1.** Expressions that are not specifically defined in the Business Rules, but are given a particular meaning in the \* Act, have the same meaning in the Business Rules.
- 1.3.2.** A reference to a law, \* APX's constituent documents, \* APX's Business Rules, \* APX's \*Listees' Listing Standards, is a reference to the provision as:

- (a) amended;

Example: The Corporations Act as amended by the Financial Services Reform Act.

- (b) re-enacted;

- (c) modified by administrative act; or

Example: An \* ASIC exemption or modification modifies the application of the \* Act.

- (d) affected by a subordinate instrument.

Example: The Corporations Regulations affect the \* Act.

- 1.3.3** Unless the context requires otherwise, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders and vice versa. A reference to a person includes a reference to a natural person and a legal person.

**CONDUCT.**

- 1.4.** An act or omission by an \* APX broker includes an act or omission caused directly or indirectly by the \* APX broker.

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Example: An \* APX broker that causes a subsidiary to take an action is taking the action indirectly.

#### CALCULATION OF TIME.

- 1.5.1.** When a Rule requires something to be done by a day that is not a \*business day, the thing must be done by the preceding \*business day.
- 1.5.2.** References to time are to local Melbourne time, unless another time is specified.

#### NOTICE TO AN APX BROKER OR AFFILIATE BY APX.

- 1.6.1.** A document is to be treated as being given to an \* APX broker or \* affiliate if it is left at, or is sent by post or fax to, the address or fax number:
- (a) in the \* APX broker's or \* affiliate's application for admission; or
  - (b) given to \* APX by the \* APX broker or \* affiliate or used in correspondence with \* APX by the \* APX broker or \* affiliate.

This **Rule** does not prevent a document being given to an \* APX broker or \* affiliate in any other way permitted by law.

Example: Laws regarding service of documents.

- 1.6.2.** The time that the document is to be treated as being given to an \* APX broker or \* affiliate are as follows:
- (a) If it is delivered, the time of delivery.
  - (b) If it is posted, on the second \*business day after posting.
  - (c) If it is faxed, when fax is received. A successful fax transmission report is sufficient proof of the time of receipt.

#### PROCEDURAL DEFECTS.

- 1.7.** A procedural defect does not invalidate a decision of \* APX. If the defect may result in substantial injustice, an \* APX broker or \* affiliate may ask \* APX to review its decision.

#### HISTORY, NOTES ETC WHICH ARE NOT PART OF THE BUSINESS RULES.

- 1.8.** The following are not part of the Business Rules:
- (a) The Tables of Contents.
  - (b) The Scope of the Chapter.
  - (c) The Explanatory Notes.
  - (d) The Introduction.
  - (e) The history, notes, examples and cross-references, set out beneath particular Rules.

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- (f) The Index.

#### **HOW AN APX BROKER OR AFFILIATE ADVISES APX.**

- 1.9.** If a Rule requires an \*APX broker or \*affiliate to advise \*APX something, the \*APX broker or \*affiliate must advise \*APX in writing.

#### **FINANCIAL STATEMENTS.**

- 1.10.** If a Rule requires an \*APX broker to give \*APX financial statements, the following Rules apply:
- (a) The statements must be prepared to Australian Accounting Standards.
  - (b) If the Rule requires audited financial statements, the audit must be conducted in accordance with Australian Accounting Standards, by an \*auditor.
  - (c) If the Rule requires financial statements to be reviewed, the review must be conducted in accordance with Australian Auditing Standards or other method of review approved by \*APX. Unless the Rule states an independent accountant may conduct the review, it must be conducted by an \*auditor.

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### DEFINITIONS.

**1.11.** The following expressions have the meaning set out below:

<b>EXPRESSIONS</b>	<b>MEANINGS</b>
<b>accountant</b>	means a member of The Institute of Chartered Accountants of Australia or the Australian Society of Accountant or such other bodies approved by the APX.
<b>acquirer</b>	means a person who has purchased securities under these Rules.
<b>Act</b>	the <i>Corporations Act 2001</i> , including the <i>Corporations Regulations</i> .
<b>adjust phase</b>	a period of time prescribed by *APX during which:  (a) an existing *bid or *offer may be cancelled, or may be adjusted so as to either decrease the price of the *bid or increase the price of the *offer, or to decrease the quantity of *securities the subject of the *bid or *offer;  (b) no new *bids, except *bids by an *APX broker which has made a market bid in accordance with Section 635 of the *Act, or *offers may be entered.
<b>affiliate</b>	a person who is recognised as an affiliate by *APX under <b>Rule 2.1.3</b> .
<b>amendment</b>	an *amendment to the *bid or *offer in the *trading system.
<b>announcement</b>	any announcement or other disclosure of information made by the *listee in accordance with <b>Rules 8.1.1 to 8.1.2</b> of the Listees' Listing Standards which may affect the value of the *securities or influence investment decisions.
<b>Appeal Tribunal</b>	the tribunal designated by *APX to hear appeals against decisions made by the APX Adjudicatory Tribunal as described in <b>Rule 8.28.1</b> .
<b>approved representative</b>	a person who is registered as an approved representative by *APX under <b>Rule 2.18.1</b> .
<b>APX</b>	Australia Pacific Exchange Limited (A.C.N. 080 399 220), a company incorporated in Australia, having its registered office at Level 1, 350 Collins Street, Melbourne, Victoria.
<b>APX Adjudicatory Tribunal</b>	the tribunal established and maintained by *APX to carry out any functions given to it under the Rules and perform such other functions delegated to it by *APX as described in <b>Rule 8.27.1</b> .
<b>APX broker</b>	a corporation that:  (a) is recognised by *APX as an *APX broker in accordance with <b>Rule 2.11.3</b> ; and  (b) has entered into a *settlement agreement with *APX; and

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\* See Chapter 1 for defined terms.

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	(c) has not ceased to be an *APX broker.
<b>ASIC</b>	the Australian Securities and Investment Commission.
<b>associate</b>	in relation to a person, includes:  (a) the *immediate family of the person;  (b) a *family company of that person; and  (c) the trustee of a *family trust of that person.
<b>auditor</b>	has the same meaning as “registered company auditor” in section 9 of the *Act.
<b>Australian ADI</b>	means an ADI (authorised deposit-taking institution) other than a foreign ADI within the meaning of the Banking Act 1959.
<b>Australian bank</b>	(a) a bank as defined by Section 5 of the Banking Act 1959; or  (b) a bank constituted by or under a law of a State or Territory.
<b>authorised person</b>	a natural person who is an employee (or similar) of the *APX broker and is permitted by the *APX broker to submit *orders to *APX terminal operators.
<b>bid</b>	an offer to purchase a quantity of *securities at a price.
<b>bidder</b>	(a) in relation to a takeover bid, has the same meaning as in section 9 of the *Act; and  (b) in relation to a *foreign takeover or a *scheme, the entity or entities which, in the opinion of *APX, is or are in a similar position to a *bidder under a takeover bid.
<b>business day</b>	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 APX declares is not a business day.
<b>buying APX broker</b>	the *APX broker which is entitled to delivery of *securities and is obliged to pay for those *securities.
<b>call paid</b>	in relation to *securities in respect of which a call has been made, the *securities are traded on the basis that the call has been paid.
<b>cancellation</b>	the cancellation of any *bids or *offers in the *trading system.
<b>Chinese walls</b>	arrangements that could reasonably be expected to ensure that *inside information known to persons in one part of the business of an *APX broker is not communicated to persons in other parts of the business of the *APX broker, being arrangements which satisfy the requirements of section 1043F(b) of the *Act.

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<b>class of security</b>	has the meaning given in the *Listees' Listing Standards.
<b>Client agreement</b>	an agreement in the form set out in <b>Appendix 5-1</b> .
<b>complaints officer</b>	the person designated by APX as the *complaints officer.
<b>condition</b>	a condition: <ul style="list-style-type: none"><li>(a) which is specified by a *listee or a vendor pursuant to <b>Rule 4.31.1 to 4.31.2</b>;</li><li>(b) the satisfaction of which may not be influenced by the acquirer or the disposer of the *securities the subject of the sale; and</li><li>(c) which is prerequisite to:<ul style="list-style-type: none"><li>(i) the allotment by a *listee of the *securities the subject of that sale; or</li><li>(ii) the transfer by a vendor pursuant to a prospectus offering to the disposer from whom title is reliant, of the *securities the subject of that sale.</li></ul></li></ul>
<b>conditional market</b>	a market declared by *APX to be a conditional market pursuant to <b>Rule 4.31.1 to 4.31.2</b> .
<b>Conflict Management Plan</b>	has the same meaning given in the *Listees' Listing Standards.
<b>conditional sale</b>	a sale which is conditional on fulfilment of a *condition and made on a *conditional market.
<b>conventional sale</b>	a sale where the vendor has a presently exercisable and unconditional right to vest the *securities in the purchaser.
<b>convertible</b>	includes exercisable.
<b>convertible security</b>	a *security which is convertible by the holder, or automatically by their terms of issue into *equity securities or *property securities.
<b>cornering</b>	conduct described in <b>Rule 5.15</b> .
<b>corporate action</b>	an action taken by a *listee for the purpose of giving to holders of a class of *securities of the *listee an entitlement to dividends and/or distributions, interest, new *securities, rights to priority of applications for issues of *securities, or any other entitlement.
<b>cross or crossing</b>	in relation to a transaction in *securities, the circumstance where an *APX broker acts: <ul style="list-style-type: none"><li>(a) on behalf of both buying and selling clients to that transaction; or</li><li>(b) on behalf of a buying or selling client on one side of that transaction and as *principal on the other side.</li></ul>

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<b>cum bonus</b>	* securities traded on the basis that the * securities carry an entitlement to a bonus issue of * securities by the * listee, and are designated as “CB” on the * trading system.
<b>cum dividend</b>	* securities traded on the basis that the * securities carry an entitlement to the next dividend payable by the * listee, and are designated as “CD” on the * trading system.
<b>cum entitlement</b>	* securities traded on the basis that the * securities carry an entitlement to rights or * securities, and are designated as “CE” on the * trading system.
<b>cum interest</b>	* securities traded on the basis that the * securities carry an entitlement to interest, and are designated as “CI” on the * trading system.
<b>cum priority</b>	* securities traded on the basis that the * securities carry a general priority, without a specific entitlement, to participate in a new issue of * securities , and are designated as “CP” on the * trading system.
<b>cum rights</b>	* securities traded on the basis that the * securities carry a right to participate in a new issue of * securities , and are designated as “CR” on the * trading system.
<b>current market information</b>	information about:  (a) the price of * securities traded (including highest prices traded, lowest prices traded and last sale); and  (b) the number of * securities traded,  on each * business day.
<b>dealing rules</b>	the * business rules governing the processes of dealing in and of reporting dealings in * securities and includes <b>Rules 4.15.1 to 4.41.5</b> .
<b>deed of indemnity</b>	a deed of indemnity in a form approved by * APX from time to time.
<b>delivery obligation</b>	the obligation of an * APX broker to deliver a specified quantity of * securities to another * APX broker or * APX brokers on a * settlement day.
<b>dispatch date</b>	the date by which a * listee is required to have dispatched certificates (or in the case of * rights, entitlement and acceptance forms in relation to those rights) or to have entered * securities (including * rights) into * security holder’s uncertificated holdings in accordance with the Listees’ Listing Standards or otherwise as determined by * APX and notified from time to time.
<b>director</b>	a director of an * APX broker.
<b>disposer</b>	means a person who has sold * securities under these Rules.
<b>dividend</b>	includes distributions in specie and liquidation distributions.
<b>enquire phase</b>	the period of time prescribed by * APX in accordance with <b>Rules 4.24.1</b>

to 4.24.2.

**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 a \*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 \*APX decides to classify as an \*equity security;

but does not include a \*security which \*APX classifies as a \*property security or \*fixed interest security.

**examining accountant**

the person designated by \*APX as an examining accountant.

**ex bonus**

means:

- (a) \*securities quoted \*ex bonus on a \*trading day prescribed by \*APX; and
- (b) designated as “**XB**” on the \*trading system.

**ex dividend**

means:

- (a) \*securities quoted \*ex dividend on a \*trading day prescribed by \*APX; and
- (b) designated as “**XD**” on the \*trading system.

**ex interest**

\*securities:

- (a) quoted \*ex interest on a \*trading day prescribed by \*APX; and
- (b) designated as “**XI**” on the \*trading system.

**ex return of capital**

means:

- (a) \*securities quoted \*ex return of capital on a \*trading day prescribed by \*APX; and
- (b) designated “**XC**” on the \*trading system.

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<b>ex rights</b>	means: <ul style="list-style-type: none"><li>(a) *securities quoted *ex rights on a *trading day prescribed by *APX; and</li><li>(b) designated “<b>XR</b>” on the *trading system.</li></ul>
<b>family company</b>	a corporation: <ul style="list-style-type: none"><li>(a) controlled by the person or the *immediate family of the person; or</li><li>(b) in respect of which the person is beneficially entitled to more than 50% of the issued capital.</li></ul>
<b>family trust</b>	a trust in which: <ul style="list-style-type: none"><li>(a) the person or the *immediate family of the person is the sole or majority beneficiary; or</li><li>(b) the person has the ability to remove the trustee of the trust and replace that trustee with his or her own nominee.</li></ul>
<b>fixed interest security</b>	means: <ul style="list-style-type: none"><li>(a) a redeemable preference share in a body which has a fixed and certain date for redemption;</li><li>(b) a debenture of a body;</li><li>(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</li><li>(d) any *securities which are determined by *APX to be *fixed interest securities,</li></ul> <p>but does not include financial products determined by *APX to be *property securities or *equity securities.</p>
<b>foreign takeover</b>	in respect of a *listee incorporated or established outside Australia, an offer to acquire *equity securities in the *listee which: <ul style="list-style-type: none"><li>(a) would, if the *listee was incorporated under the *Act, be required to be made in accordance with section 606 of the *Act; and</li><li>(b) complies with the *Act in the jurisdiction of incorporation or establishment of the *listee.</li></ul>
<b>forward delivery transaction</b>	a time contract which provides for delivery of *securities in whole or in part other than in accordance with <b>Rule 6.13.1 to 6.13.6</b> .
<b>forward price</b>	the price of *securities as fixed by a *forward delivery transaction.

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<b>forward securities</b>	the * securities the subject of a * forward delivery transaction.
<b>franked dividend</b>	means a dividend with an attached imputation credit and, includes a fully franked or partly franked dividend, whether paid by way of cash, the issue of shares or a combination of both cash and shares.
<b>funds manager</b>	an entity whose primary business is to invest moneys and manage assets and other investments allocated to it by clients for that purpose.
<b>immediate family</b>	in relation to a person means that person's spouse and any children under the age of 18 years.
<b>independent director</b>	in relation to * APX, has the same meaning as in the constitution of * APX.
<b>independent external person</b>	in relation to * APX, means a person who:  (a) is eligible to be an * independent director of * APX; and  (b) is not, and has not within the last 5 years been, a director or secretary of * APX.
<b>inside information</b>	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 * Act apply.
<b>listee</b>	(a) an entity that has applied for approval (and has not been rejected) by * APX for listee status; or  (b) an entity that has been admitted to the * official list.
<b>Listees' Listing Standards</b>	the listing standards of * APX.
<b>mark</b>	in respect of a transfer of * securities means the certification of transfers by the * listee of the * securities as to the number of * securities represented by each transfer.
<b>market user</b>	a person who has agreed in writing to be bound by these Rules in the * client agreement.
<b>new ex interest</b>	means:  (a) * fixed interest securities quoted new ex interest by * APX when the first interest payment is made exclusively to the original allottees of those * fixed interest securities; and  (b) designated "NX" on the * trading system.
<b>normal trading</b>	the hours of trading prescribed by * APX in accordance with <b>Rule 4.18</b> .
<b>notify</b>	notification in writing after the event requiring the notification has

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\* See Chapter 1 for defined terms.

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	occurred.
<b>offer</b>	an offer to sell a quantity of * securities at a price.
<b>offer period</b>	(a) in relation to a takeover bid, has the same meaning as in section 9 of the * 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 * APX 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 * APX until the date on which the * scheme is effected.
<b>official list</b>	has the meaning given to that term in the * Listees' Listing Standards of * APX.
<b>official quotation</b>	Official quotation by * APX.
<b>opening phase</b>	a period of time prescribed by * APX immediately following the start of * normal trading for that * trading day when * bids and * offers are to be matched in accordance with the provisions of <b>Rule 4.22.1 to 4.22.4</b> .
<b>operational requirements</b>	the requirements specified in <b>Rules 4.4.4 to 4.4.5</b> .
<b>order</b>	an instruction to purchase or sell * securities, or an instruction to amend or cancel a prior instruction to purchase or sell * securities.
<b>prescribed person</b>	Each of the following:  (a) a director of an * APX broker;  (b) a, * representative or * affiliate of an * APX broker;  (c) a member of the * immediate family of a * representative or * affiliate of an * APX broker;  (d) a * family company or * family trust of a * representative or * affiliate of an * APX broker;  (e) a * substantial security holder in the * APX broker acting as principal;  (f) any corporation controlled by an * APX broker or a person referred to in paragraphs (a) to (d) above.
<b>pre-opening phase</b>	a period of time as prescribed by * APX when * bids or * offers can be entered, amended or cancelled but transactions cannot be effected on the * trading system.
<b>principal</b>	except where an * APX broker is dealing as a trustee of a trust in which

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the \*APX broker has no direct or indirect beneficial interest, a reference to dealing as principal includes a reference to an \*APX broker:

- (a) dealing in \*securities on behalf of a \*director, company secretary or \*substantial holder of an \*APX broker;
- (b) dealing in \*securities on behalf of a consultant of an \*APX broker;
- (c) dealing in \*securities on behalf of a member of the \*immediate family of a \*director, consultant, company secretary or \*substantial holder of the \*APX broker;
- (d) dealing in \*securities on behalf of a \*family company or \*family trust of a \*director, consultant, company secretary or \*substantial holder of the \*APX broker;
- (e) dealing in \*securities on behalf of a related body corporate of the \*APX broker.

#### **professional investor**

Means a person to whom an offer of securities can be made without disclosure in accordance with sub-sections 708(8), 708(10) or 708(11) of the \*Act.

#### **prohibited conduct**

Means:

- (a) in relation to a \*market user, any conduct of the \*market user which contravenes:
  - (i) the \*Act in relation to transactions taking place on, or by means of the \*trading system operated by \*APX; or
  - (ii) these Rules; and
- (b) in relation to each \*APX broker:
  - (i) any conduct of the \*APX broker which contravenes:
    - (A) the \*Act in relation to transactions taking place on, or by means of the \*trading system operated by \*APX; or
    - (B) these Rules; or
    - (C) a condition of its Australian financial services licence; and
  - (ii) any conduct which does not involve a contravention referred to in paragraph (i) above, but which conduct:
    - (A) involves a lack of honesty or fair dealing by an \*APX broker in relation to clients or the public; or
    - (B) involves a substantial or consistent failure to reach professional standards of competence and diligence; and

(iii) each of the following practices:

- (A) 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;
- (B) executing an order which involves no change of beneficial ownership of \* securities, except where the \* APX broker has no knowledge that executing the order involves no change of beneficial ownership of \* securities;
- (C) executing forward delivery transactions (as defined in the Rules);
- (D) \* short selling;
- (E) \* cornering.

**property entity**

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 \* APX decides to classify as a \* property security;

but does not include a \* security which \* APX classifies as an \* equity security or a \* fixed interest security.

**quotation**

has the meaning given in the \* Listees' Listing Standards.

**reciprocal arrangement**

any agreement or arrangement between \* APX and any governmental agency or regulatory authority (including, without limitation, a

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financial market) in Australia or elsewhere whose functions include the regulation of trading in \*securities or commodities (in Australia or elsewhere) which provides for the disclosure of information between \*APX and the other party in relation to dealings in \*securities or commodities (in Australia or elsewhere).

#### **record date**

the date determined by a \*listee as the date by which \*transfers must be received for the purpose of identifying the persons entitled to the benefit of a \*corporate action.

#### **related party**

- (a) in relation to a public company, has the meaning given to the term related party in section 228 of the \* Act;
- (b) in relation to a corporation which is not a public company:
  - (i) an entity that controls the corporation;
  - (ii) the following persons:
    - (A) directors of the corporation;
    - (B) directors (if any) of an entity that controls the corporation;
    - (C) if the corporation is controlled by an entity that is not a body corporate – each of the persons making up the controlling entity;
    - (D) spouses and de facto spouses of the persons referred to in paragraphs (A), (B) and (C);
  - (iii) the following relatives of persons referred to in paragraph (ii):
    - (A) parents;
    - (B) children;
  - (iv) an entity controlled by a related party referred to in paragraphs (i), (ii) or (iii), unless the entity is also controlled by the corporation;
  - (v) an entity that was a related party of the corporation of a kind referred to in paragraphs (i), (ii), (iii) or (iv) at any time within the previous six months;
  - (vi) an entity that believes or has reasonable grounds to believe that it is likely to become a related party of the corporation of a kind referred to in paragraphs (i), (ii), (iii) or (iv) at any time in the future; and
  - (vii) an entity that acts in concert with a related party of the corporation of the kind referred to in paragraphs (i), (ii), (iii), (iv), (v) and (vi) on the understanding that the related party

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will receive a financial benefit if the corporation gives the entity a financial benefit.

- (c) in relation to a registered scheme, has the meaning in section 228 of the \*Act as modified by section 601LA of the \*Act;
- (d) in relation to a managed investment scheme which is not a registered scheme, the management company, trustee and their related parties within the meaning of section 228 of the \*Act;
- (e) in relation to a natural person:
  - (i) his or her spouse, de facto spouse, parent, son, or daughter, or a spouse or de facto spouse of that person;
  - (ii) an entity over which one or more persons referred to in paragraph (i) has control;
  - (iii) an entity that he or she controls, or its parent entity or sibling entity;
  - (iv) a person who acts, or proposes to act, in concert with anyone referred to above; or
  - (v) a person who was a related party in the previous 6 months, or who would be a related party in the future, under the tests in section 228 of the \*Act (applied with any necessary adaptation).

### Representative

means:

- (a) an authorised representative of a financial services licensee; or
- (b) an employee or director of a financial services licensee.

### Rules

these Business Rules of \*APX.

### scheme

a compromise or arrangement within the meaning of section 411 of the \*Act (and, 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, in the opinion of \*APX, a similar result to a takeover within the meaning of the \*Act.

### secretary

secretary of \*APX Appeal Tribunal.

### security

an \*equity security, a \*property security or a \*fixed interest security.

### securities transaction

a transaction in \*securities.

### selling APX broker

the \*APX broker which is obliged to deliver \*securities and is entitled to receive payment for those \*securities.

### settlement agent

an entity approved in accordance with **Rule 6.27.1** to act as the

## Chapter 1

### Interpretations and Definitions.

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settlement agent of an \*APX broker to perform the settlement obligations of that \*APX broker under these Rules.

**settlement agreement** has the meaning set out in **Rule 4.2.1**.

**short sale** a sale of \*securities which is prohibited by section 1020B of the \*Act.

**substantial holder** (a) in relation to a company and a trust which is a registered managed investment scheme, a substantial holder under section 671B of the \*Act.

Note: At 1 July 2003, section 671B of the \*Act says a \*substantial holder means a person who has a substantial holding, that is the person and the person's associates have a relevant interest in not less than 5% of the total votes attached to the voting shares in the company or the voting interests in the scheme.

Sections 608 and 609 of the \*Act explain when a person has a relevant interest in shares or interests in a scheme.

(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 \*Act if references to interests in the scheme in the \*Act were references to \*units.

**takeover** means:

- (a) a takeover within the meaning of the \*Act;
- (b) a \*foreign takeover; and
- (c) a \*scheme.

**target** (a) in relation to a \*takeover within the meaning of the \*Act, has the same meaning as in section 9 of the Law;

(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 in the opinion of \*APX, is in a similar position to a target company.

**terminal operator** an employee of \*APX responsible for the entry of \*orders in the \*trading system.

**trading day** means:

- (a) a day other than:
  - (i) a Saturday, Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day; and
  - (ii) any other day \*APX declares and publishes is not a trading day; and

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(b) notwithstanding (a), a day which for the purposes of settlement, \*APX declares is a trading day notwithstanding that the financial market of \*APX is not open.

<b>trading fees</b>	fees for trading activity on *the trading system, determined from time to time by *APX in accordance with the Rules.
<b>trading governor</b>	an employee or officer of *APX appointed by *APX to oversee *the trading system.
<b>trading messages</b>	those messages submitted to the *terminal operators by *authorised persons relating to trading functions, such as *orders and the reporting of *orders on the trading system.
<b>trading permission</b>	the authority under these Rules of an *APX broker to submit *trading messages to *APX terminal operators.
<b>trading system</b>	the computer system and associated network operated by *APX in providing a market for the trading of *securities.
<b>web dissemination page</b>	the web page(s) established by *APX for the dissemination of information.
<b>weighted price</b>	means:  (a) if the Bid price and the Offer price are the same, that price; or  (b) otherwise, the price calculated in accordance with the following formula:  $A = \frac{(B \times C) + (D \times E)}{C + E}$  where: A is the weighted price expressed in dollars; B is the Bid price; C is the Bid quantity; D is the Offer price; and E is the Offer quantity.

**SCHEDULE 1**

The terminology used in the Business Rules reflects the requirements of the *Corporations Act 2001* ("**Act**") as amended by the *Financial Services Reform Act 2001* ("**FSRA**"). However, until the end of the FSRA transition period, the following terms include a reference to the terms as defined in the Act as in force immediately before 11 March 2002 ("**Original Act**").

1. The term "**Australian financial services licence**" includes a reference to the term "dealers licence" as that term is defined in the Original Act.
2. The terms "**authorised representative**" and "**\*representative**" respectively include a reference to the terms:
  - (1) "securities representative" as that term is defined in the Original Act; and
  - (2) "proper authority" as that term is defined in the Original Act.
3. The term "**financial services business**" includes a reference to the term "securities business" as that term is defined in the Original Act.
4. The term "**financial services licensee**" includes a reference to the term:
  - (1) "securities dealer" as that term is defined in the Original Act.
  - (2) "securities licensee" as that term is defined in the Original Act.