

CHAPTER 12

CIRCULARS

**CHAPTER 12 - SCOPE OF CHAPTER
CIRCULARS**

This **Chapter** sets out the general requirements which apply to all *circulars sent by a *listee to holders of its *listed securities. It also sets out specific requirements for *circulars of a routine nature.

Where the *circulars, or the transaction or matter to which it relates, has unusual features, or where it is not possible to comply with the relevant requirements set out in this **Chapter**, *APX must be consulted at an early stage and it may require the *circular to be submitted in draft form.

Chapter 8 under the heading “Communication with security holders” also contains provisions relevant to *circulars. The specific requirements for circulars issued in connection with Class 1 transactions are set out in **Chapter 10**, for transactions with a *related party in **Chapter 11**, for **Chapter 13** documents in **Chapter 13** and for purchases by a *listee of its own *securities in **Chapter 14**.

CONTENTS OF ALL CIRCULARS.

- 12.1.** Any *circular sent by a *listee to all holders of *securities that are in the same class as *quoted securities must:
- (a) provide a clear and adequate explanation of its subject matter;
 - (b) if voting or other action is required, contain all information necessary to allow the holders of the *securities to make a properly informed decision;
 - (c) if voting or other action is required, contain a heading drawing attention to the importance of the document and advising holders of *securities who are in any doubt as to what action to take to consult appropriate independent advisers;
 - (d) where voting is required, contain a recommendation from the *directors as to the voting action *security holders should take, indicating whether or not the proposal described in the notice is, in the opinion of the *directors, in the best interests of the *security holders as a whole;
 - (e) where new *securities are being issued in substitution for existing *securities, explain what will happen to existing documents of title;
 - (f) not include any reference to a specific date which has not been agreed in advance with *APX on which *listed securities will be marked “ex” any benefit or entitlement;
 - (g) where it relates to a transaction in connection with which *securities are proposed to be quoted, include a statement that application has been or will be made for the *securities to be admitted to *quotation and, if known, a statement of the following matters:
 - (i) the date trading is expected to commence;
 - (ii) how the new *securities rank for dividend and/or distribution or interest;
 - (iii) whether the new *securities rank pari passu with any existing quoted securities;
 - (iv) the proposed date of issue;
 - (v) the treatment of any fractions; and
 - (vi) whether or not the *securities may be held in uncertificated form; and
 - (h) where a person is named in the *circular as having advised the *listee or its *directors, a statement that such adviser has given and has not withdrawn its written consent to the inclusion of the reference to the adviser’s name in the form and context in which it is included.

Chapter 12 Circulars

LODGMENT OF CIRCULARS.

- 12.2.1.** No *circular may be circulated or made available publicly until the final form of the *circular has been received by *APX (marked for the attention of the *Listing Applications Department).
- 12.2.2.** The following documents where required by the *Listees' Listing Standards are to accompany the *circular:
- (a) a letter from the *sponsor referred to in **Rule 3.5** (working capital letter);
 - (b) in the case of a Class 1 *circular, a letter setting out which of those items of information referred to in **Rule 10.15.1** are not applicable;
 - (c) the *sponsor's confirmation of independence (see **Rule 3.2.2(b)**); and
 - (d) any other document required by the *Listees' Listing Standards.
- 12.2.3.** Two copies of the following documents (where applicable) must be submitted (marked for the attention of *Listing Applications Department) at the same time as it is dispatched to security holders:
- (a) the *circular;
 - (b) the letters and documents referred to in **Rules 12.2.2(a), (b) and (c)**.

CIRCULARS OF A ROUTINE NATURE.

REDUCTION OF CAPITAL.

- 12.3.** A *circular in connection with a resolution proposing to reduce the *listee's capital must include a statement of the reasons for and the effects of the proposal.

BONUS ISSUE.

- 12.4.** A *circular in connection with a resolution proposing a *bonus issue must include:
- (a) the reason for the issue;
 - (b) a statement of the last date on which transfers were or will be accepted for registration to participate in the issue;
 - (c) details of the pro rata entitlement;
 - (d) a description of the nature and amount of reserves which are to be capitalised; and
 - (e) the information required by **Rule 6.8.2**.

DIVIDEND OR DISTRIBUTION REINVESTMENT.

- 12.5.** A *circular containing an offer to *security holders of the right to elect to receive *securities in lieu of all or part of a cash dividend and/or distribution must include:
- (a) a statement of the total number of *securities that would be issued if all eligible *security holders were to elect to receive *securities in respect of their entire *security

holdings, and the percentage which that number represents of the * equity securities in issue at the date of the * circular;

- (b) in a prominent position, details of the equivalent cash dividend and/or distribution forgone to obtain each * security or the basis of the calculation of the number of * securities to be offered in lieu of cash;
- (c) a statement of the total cash dividend and/or distribution payable and applicable tax credit on the basis that no elections for the scrip dividend alternative are received;
- (d) a statement of the date for ascertaining the * securities price used as a basis for calculating the allocation of * securities;
- (e) a statement that the * securities will rank equally with a * class of quoted * securities (ignoring the fact that they do not rank equally for the next dividend (in the case of a managed investment scheme or prescribed interest scheme, distributions) and any right to participate in a concurrent offer);
- (f) details of the pro rata entitlement;
- (g) details of what is to happen to fractional entitlements;
- (h) the * record date; and
- (i) a form of election relating to the scrip dividend and/or distribution alternative which:
 - (i) is worded so as to ensure that security holders must elect positively in order to receive * securities in lieu of cash; and
 - (ii) includes a statement that the right is non-transferable.

PURCHASE OF OWN SECURITIES.

12.6. A * circular in connection with a resolution proposing to give the * listee authority to purchase its own * securities must include a statement of the reasons for, and the effects of, the proposal.

NOTICES OF MEETINGS.

12.7.1. Whenever holders of * quoted securities are sent a notice of meeting which includes any business other than ordinary business at an annual general meeting, an explanatory * circular must accompany the notice. If such other business is to be considered at or on the same day as an annual general meeting, the explanation may be incorporated in the * directors' report.

12.7.2. A * circular or other document convening an annual general meeting at which only ordinary business is to be conducted and, if applicable, any other matter covered by this **Chapter** is to be considered or proposed need not be submitted to * APX for prior approval if, in respect of any such other matter to be considered or proposed, the * circular or other document complies with the relevant provisions of this **Chapter**.

12.7.3. A * circular or other document convening an annual general meeting need not comply with **Rules 12.1(c), (d) and (e)**.

CHAPTER 13 CIRCULARS.

12.8. A * circular in connection with a resolution proposing to approve the adoption or amendment of:

- (a) a * constitution;
- (b) a trust deed; or
- (c) an * employees' incentive scheme or discounted option arrangement,

must satisfy the requirements for such circulars set out in **Chapter 13**.

EARLY REDEMPTION.

12.9.1. A * circular in connection with a resolution proposing to redeem a listed * fixed interest security prior to its due date for redemption must include:

- (a) an explanation of the reasons for the early redemption;
- (b) a statement of the market values for the * securities on the first dealing day in each of the six months before the date of the * circular and on the latest practicable date prior to dispatch of the * circular;
- (c) a statement of any interests of any * director in the * securities;
- (d) if there is a * trustee, or other representative, of the holders of the * securities to be redeemed, a statement that the * trustee, or other representative, has given its consent to the issue of the * circular or stated that it has no objection to the resolution being put to a meeting of the holders of the * securities;
- (e) the timetable for redemption; and
- (f) an explanation of the procedure to be followed by the holders of the * securities.

12.9.2. The * circular must not contain specific advice as to whether or not to accept the proposal for redemption.

REMINDERS OF CONVERSION RIGHTS.

12.10.1. A * circular sent to holders of * listed convertible securities reminding them of the times when conversion rights are exercisable must include:

- (a) the date of the last day for lodgment of conversion forms and of the expected dispatch of the certificates;
- (b) statement of the market values for the * securities on the first dealing day in each of the six months before the date of the * circular and on the latest practicable date prior to dispatch of the * circular;
- (c) the basis of conversion in the form of a table setting out capital and income comparisons;
- (d) a brief explanation of the tax implications of conversion for holders resident for tax purposes in Australia;

- (e) if there is a *trustee, or other representative, of the holders of the *securities to be redeemed, a statement that the *trustee, or other representative, has given its consent to the issue of the *circular or stated that it has no objection to the resolution being put to a meeting of the holders of the *securities;
- (f) reference to future opportunities to convert and whether the terms of conversion will be the same as or will differ from those available at present, or, if there are no such opportunities, disclosure of that fact;
- (g) reference to letters of indemnity, for example, where certificates have been lost;
- (h) where power exists to allot *securities issued on conversion to another person, reference to forms of nomination; and
- (i) a statement as to whether holders exercising their rights of conversion will retain the next interest payment due on the *securities.

12.10.2. The *circular must not contain specific advice as to whether or not to convert the *securities.