

CHAPTER 14

PURCHASE OF OWN SECURITIES

**CHAPTER 14 - SCOPE OF CHAPTER
PURCHASE OF OWN SECURITIES**

This **Chapter** sets out the Rules which apply to a *listee wishing to purchase its own *quoted securities, whether as a market purchase or an off-market purchase within the meaning of section 257A of the *Act. The requirements mainly relate to the notification of proposed and actual purchases. The information required in annual accounts concerning the purchase of own * securities is set out in **Rule 9.8**.

Chapter 14

Purchase of Own Securities

GENERAL.

LISTEES' RESTRICTION ON DEALING CODE.

- 14.1.** Purchases by a *listee of its own *securities must not be made at a time when, under the provisions of the Listees' Restriction on Dealing Code, a *director of the *listee would be prohibited from dealing in its *securities.

PURCHASE FROM A RELATED PARTY.

- 14.2.** Where a purchase by a *listee of its own *securities is to be made from a *related party, whether directly or through intermediaries, the requirements of Chapter 2E of the *Act must be complied with.

PURCHASE OF OWN EQUITY SECURITIES.

GENERAL RULE FOR AN ORDERLY MARKET.

- 14.3.** If a *listee proposes to reorganise its capital (in the case of a managed investment scheme, interests) in any way, it must consult with *APX prior to implementing the proposal to ensure that an orderly market is maintained in its *securities.

Cross reference: **Chapter 7.**

COURT APPROVED REORGANISATION.

- 14.4.1.** A *listee that has applied to a court for approval of a reorganisation of its capital (in the case of a managed investment scheme, interests) must tell *APX in accordance with **Rules 14.4.2 to 14.4.4.**
- 14.4.2.** If the court approves the application, the *listee must notify *APX of the approval immediately.
- 14.4.3.** If the court order will be lodged with a regulatory authority, the *listee must notify *APX of the date when the court order will be lodged with the regulatory authority. It must do so at least 24 hours before the court order is lodged.
- 14.4.4.** The *listee must notify *APX immediately after the court order is lodged with the regulatory authority. The *listee must give *APX a copy of the court order at the same time.

Cross reference: **Rule 8.8(d).**

NOTIFICATION OF PROPOSAL TO PURCHASE.

- 14.5.** If a *listee proposes a reorganisation of its capital (in the case of a managed investment scheme, interests) it must submit the proposal to *security holders by way of a *circular which includes the following information:

- (a) the effect of the proposal on the number of *securities and the paid up value of the *securities;
- (b) the proposed treatment of any fractional entitlements arising from the reorganisation;
- (c) the proposed treatment of any *convertible securities on issue; and

Chapter 14

Purchase of Own Securities

(d) the information required by **Rule 12.1** (contents of all *circulares).

Note: The definition of *convertible securities includes options.

NOTIFICATION OF PURCHASES.

14.6. Any purchase of the *listee's own *equity securities by or on behalf of the *listee, or any other member of its *group, must be notified to *APX Announcements Office as soon as possible and in any event no later than 8.30 am on the *business day following the day on which dealing occurred. The notification must include the date of the purchase, the number of *equity securities purchased and the purchase price for each or the highest and lowest prices paid, where relevant.

NOTIFICATION OF PURCHASES, EARLY REDEMPTIONS AND CANCELLATIONS.

14.7. Any purchases, early redemptions or cancellations of the *listee's own *listed securities, other than *equity securities by or on behalf of the *listee or any other member of its *group, must be notified to *APX Announcements Office as soon as possible and in any event no later than 8.30 am on the *business day following the day on which the dealing occurred. The notification must state the amount of *securities acquired, redeemed or cancelled since the last such notification, the amount of the *class of securities remaining outstanding and whether or not the *securities acquired are to be cancelled.

CONVERTIBLE SECURITIES.

14.8. In the case of *securities which are *convertible into, exchangeable for or carrying a right to subscribe for *equity securities, unless a tender or partial offer is made to all holders of the *class of securities on the same terms, purchases must not be made at a price more than 5% above the average of the market values for the *securities for the 5 *business days immediately preceding the date of purchase.

REORGANISATION OF OPTIONS.

14.9.1 A *listee with options on issue must comply with **Rules 14.9.2 to 14.9.7** in relation to the way the options are treated under a reorganisation.

14.9.2 *In a consolidation of capital* - the number of options must be consolidated in the same ratio as the ordinary capital and the exercise price must be amended in inverse proportion to that ratio.

Example: Company A consolidates 2 *fully paid ordinary securities of into 1 *fully paid ordinary security. Every 2 options exercisable at \$1.00 each are consolidated into 1 option exercisable at \$2.00 for 1 *fully paid ordinary security.

14.9.3 *In a sub-division of capital* - the number of options must be sub-divided in the same ratio as the ordinary capital and the exercise price must be amended in inverse proportion to that ratio.

Example: Company A splits 1 *fully paid ordinary security into 2 *fully paid ordinary securities. Every option exercisable at \$2.00 each is split into 2 options exercisable at \$1.00 each for an *ordinary fully paid security.

14.9.4 *In a return of capital* - the number of options must remain the same, and the exercise price of each option must be reduced by the same amount as the amount returned in relation to each *ordinary security.

Example: Company A has *fully paid securities on issue. It returns \$1.00 per ordinary share to security holders. Every option exercisable at \$2.00 each for a fully paid share becomes an option exercisable at \$1.00 each for a *fully paid security.

Chapter 14

Purchase of Own Securities

14.9.5 *In a reduction of capital by a cancellation of paid up capital that is lost or not represented by available assets where no securities are cancelled* - the number of options and the exercise price of each option must remain unaltered.

Example: Company A has fully paid securities on issue. It has lost the equivalent of \$1.00 per security and cancels the equivalent of \$1.00 from each security. Every option exercisable at \$2.00 each for a fully paid security remains an option exercisable at \$2.00 each for a fully paid share.

14.9.6 *In a pro rata cancellation of capital* - the number of options must be reduced in the same ratio as the ordinary capital and the exercise price of each option must be amended in inverse proportion to that ratio.

Example: Company A has fully paid securities on issue. It has lost \$1.00 per security and cancels half the securities. Its capital is reduced from 1,000,000 securities to 500,000 securities. It has on issue 1,000,000 options exercisable at \$2.00 each for a fully paid security. Following the reorganisation, it has on issue 500,000 options exercisable at \$4.00 each for a fully paid security.

14.9.7 *In any other case* - the number of options or the exercise price, or both, must be reorganised so that the holder of the option will not receive a benefit that holders of ordinary securities do not receive. This **Rule** does not prevent a rounding up of the number of securities to be received on exercise if the rounding up is approved at the security holders' meeting which approves the reorganisation.

AMENDING CONVERTIBLE SECURITIES TO ALLOW REORGANISATION.

14.10 If in a reorganisation the terms of convertible securities do not allow them to be treated in accordance with the Listees' Listing Standards, the terms must be amended so that the convertible securities can be treated in accordance with the Listees' Listing Standards.

Note: If the terms of the convertible securities cannot be amended, this **Rule** prevents the reorganisation being undertaken. This **Rule** also covers options.

Example: The terms may be amended by court order or agreement of the holders of the convertible securities.

Cross reference: **Rule 4.24.3**.

REORGANISATION OF PARTLY PAID SECURITIES.

14.11.1 A listee which has partly paid securities on issue must comply with **Rules 14.11.2** to **14.11.3** in relation to the way the partly paid securities are treated under a reorganisation.

14.11.2 The number of partly paid securities must be reorganised in the same proportion as the other classes of securities.

14.11.3 The reorganisation must not involve cancellation or reduction of the total amount payable and unpaid by the holder.

ON-MARKET BUY-BACKS FOR A LISTEE.

PRE-CONDITION FOR AN ON-MARKET BUY-BACK.

14.12 A listee may only buy securities under an on-market buy-back if transactions in the listee's securities were recorded on APX on at least 5 days in the 3 months before it buys back the securities.

Chapter 14

Purchase of Own Securities

PURCHASE PRICE UNDER ON-MARKET BUY-BACK.

14.13 A *listee may only buy back *securities under an on-market buy-back at a price which is not more than 5% above the average of the *market price for *securities in that *class. The average is calculated over the last 5 days on which sales in the *securities were recorded before the day on which the purchase under the buy-back was made.

PURCHASES FROM DIRECTORS AND THEIR RELATED PARTIES.

14.14 A *listee must not purchase shares from a *director, or a *related party of the *director, unless the right to sell them to the *listee is reserved in the *listee's **Appendix 14-1** or the *listee's latest **Appendix 14-2**. If the right is not reserved, the *listee may purchase *securities from that person only after an **Appendix 14-2** reserving that right is given to *APX.

BUY-BACKS NOT UNDER THE CORPORATIONS LAW.

14.15 A *listee not subject to the buy-back provisions of the *Act may buy back its *securities on-market only if it consults *APX before the buy-back and complies with any requirements *APX sets. *APX may require the entity to comply with the *Act as if it were a company, or with the *Listees' Listing Standards relating to on-market buy-backs by *listees, with any adaptations that, in *APX's opinion, are appropriate.

Note: Trusts cannot have withdrawal or buy-back provisions in their trust deeds that operate while they are listed. See **Rule 4.18**. Therefore this **Rule** will apply to a trust that wants to make a buy-back of units.

COMPANY MAKING A BUY-BACK.

14.16 A *listee must complete the following documents and give them to *APX at the times set out below.

Chapter 14
Purchase of Own Securities

Document	Type of buy-back					When document must be given to *APX
	Minimum holding	Employee incentive scheme	On-market	Equal access scheme	Selective	
<i>Appendix 14-1</i> Announcement of buy-back		✓	✓	✓	✓	In the case of an on-market buy back, immediately the *listee decides that it wants to buy back *securities. Example: On 1 February a *listee decides that it wants to buy back shares in March. The Appendix 14-1 must be given to *APX on 1 February. In the case of any other buy-back, immediately the *listee decides to buy back *securities.
<i>Appendix 14-2</i> Change relating to buy-back		✓	✓	✓	✓	Immediately any change is made to information the *listee has given to *APX in Appendix 14-1 or Appendix 14-2 .
<i>Appendix 14-3</i> Daily notification		✓	✓	✓		At least half an hour before the commencement of trading on the *business day after any day on which *securities are bought back.
<i>Appendix 14-4</i> Final notice		✓	✓	✓	✓	At least half an hour before the commencement of trading on the *business day after any of the following. <ul style="list-style-type: none"> • The *listee buys back the maximum number of *securities that it wanted. • The *listee decides it will stop buying back *securities. • If the buy-back is an equal access buy-back scheme, the last day of the offer period.
A copy of any notice of cancellation of *securities lodged with the *ASIC following a buy-back	✓	✓	✓	✓	✓	At the same time as the *listee lodges the notice with the *ASIC. Note: As at 1/9/99, section 254Y of the *ACT requires a notice stating the number of *securities cancelled, the amount paid by the *listee (in cash or otherwise) on the buy-back, and the class of *securities cancelled to be lodged with the *ASIC within one month after the cancellation of the *securities.

Cross reference: **Appendix 14-1, clause 6.**

Chapter 14
Purchase of Own Securities

FORFEITED SECURITIES.

14.17.1 If forfeited shares are auctioned, the following contained in **Rules 14.17.2 to 14.17.3** must be terms of the auction.

14.17.2 Settlement must be effected on the day of the auction or, if the purchaser chooses, the next day on which banks are open for business.

14.17.3 The *securities must not be offered in parcels larger than 10% of the total number to be offered.

Cross reference: **Rule 4.35.**

COMPLIANCE WITH TIMETABLES.

14.18 A *listee must comply with **Appendix 14-5.**

* See Chapter 1 for defined terms.