

CHAPTER 17

RESTRICTED SECURITIES

Chapter 17
Restricted Securities

CHAPTER 17 - SCOPE OF CHAPTER
RESTRICTED SECURITIES

*Restricted securities may not be dealt with for a specified time (the escrow period). The restriction may be enforced by the holder of certificates giving them to a bank or recognised * trustee to hold in escrow.

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REQUIREMENTS FOR ALL RESTRICTED SECURITIES.

ENTRY INTO RESTRICTION AGREEMENTS AND APPLICATION OF RESTRICTIONS.

- 17.1.1.** A *listee which issues *restricted securities, or has them on issue, must enter into a restriction agreement with the holder.
- 17.1.2.** If the holder is a *listee, its controllers do not have to be parties to the agreement.
- 17.1.3.** If the holder is not a *listee, its controllers must also be parties to the agreement.

Cross reference: **Appendix 17-1.**

- 17.1.4.** A restriction agreement must be in accordance with **Appendix 17-1**, or as *APX requires in a particular case.
- 17.1.5** A *listee which issues *restricted securities, or has them on issue, must apply the restrictions in **Appendix 17-2** or other restrictions as *APX, in its discretion, decides. However, unless *APX decides otherwise, the restrictions in clauses 1, 2, 3, 4, 7, 8 and 9 of **Appendix 17-2** do not apply in relation to any of the following *listees:
- (a) A *listee that has a track record of profitability or revenue acceptable to *APX.
 - (b) A *listee that, in the opinion of *APX, has a substantial proportion of its assets as tangible assets or assets with a readily ascertainable value.

Note: The definition of *restricted securities includes *securities *APX decides are *restricted securities.

Cross-reference: **Rule 1.18.**

WHEN RESTRICTION AGREEMENTS MUST BE ENTERED.

- 17.2.** A *listee must make sure that all completed restriction agreements are given to *APX before any person gets the *restricted securities or any rights in relation to them. This **Rule** does not prevent the person getting the right to receive *restricted securities on condition that restriction agreements are entered into.

Example: A *listee may agree to issue *restricted securities in exchange for a *property title on condition that restriction agreements are entered into. If the agreements are not entered into, the *restricted securities must not be issued.

Cross reference: **Appendix 17-1.**

ENFORCEMENT OF RESTRICTIONS.

- 17.3.** A *listee must comply with, and enforce, a restriction agreement, and enforce its constitution, to ensure compliance with the requirements for *restricted securities.

Note. Requirements are in this **Chapter**, **Appendix 17-1** and **Appendix 13-1, paragraphs 19 to 21.**

ESCROW OF RESTRICTED SECURITIES.

- 17.4.** A *listee must get a *bank's or recognised trustee's undertaking to hold the certificate of a *restricted security for the escrow period, and not release the certificate without *APX's written consent. The *listee must give the undertaking to *APX within 2 *business days after the issue of the *restricted securities.

ESCROW OF SECURITIES OF UPSTREAM ENTITIES.

- 17.5.1.** A *listee must get a *bank's or recognised trustee's undertaking to hold the certificate of any *equity security in a person (except a *listee) that is required to enter a restriction agreement for the escrow period and not to release that certificate without *APX's written consent.
- 17.5.2.** The *listee must give the undertaking to *APX within 2 *business days after the issue of the *restricted securities.

CHANGES OF RESTRICTIONS DURING ESCROW.

- 17.6.** During the escrow period, a *listee must not do either of the following:
- (a) Change an executed restriction agreement.
 - (b) Ask for, or agree to, release of a certificate by a bank or recognised *trustee.

LENGTH OF ESCROW PERIOD - LISTEE SEEKING ADMISSION.

- 17.7.** If the *listee is seeking admission to the *official list, the escrow period is 24 months commencing on the date on which *quotation of *securities commences. *APX may fix a different period.

LENGTH OF ESCROW PERIOD - LISTEE NEWLY ADMITTED OR CHANGING ACTIVITIES.

- 17.8.1.** If the *listee has been admitted for *no more* than 12 months, the escrow period is 24 months, commencing on the date on which the last of the following events occurs:
- (a) The *restricted securities are issued.
 - (b) The restriction agreement is entered into.
 - (c) If its *securities are suspended, they are re-quoted.
- 17.8.2.** *APX may fix a different period.

LENGTH OF ESCROW PERIOD - LISTEE ADMITTED MORE THAN 1 YEAR.

- 17.9.1.** If the *listee has been admitted for *more* than 12 months, the escrow period is 12 months, commencing on the date on which the last of the following events occurs:
- (a) The *restricted securities are issued.
 - (b) The restriction agreement is entered into.
 - (c) If applicable, the *restricted securities are quoted.
- 17.9.2.** *APX may fix a different period.

LENGTH OF ESCROW PERIOD FOR BONUS ISSUES.

- 17.10.** Although a *security that is issued as a *bonus issue on *restricted securities is itself a *restricted security, it has to be held in escrow only for the balance of the escrow period that applies to the initial *restricted security.

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Note: The definition of * restricted securities says that * securities issued as a * bonus issue in relation to * restricted securities are themselves * restricted securities.

LENGTH OF ESCROW PERIOD FOR SECURITIES ISSUED ON EXERCISE OR CONVERSION OF RESTRICTED SECURITIES.

17.11. Although a * security that is issued on the * conversion of a * restricted security is itself a * restricted security, it has to be held in escrow only for the balance of the escrow period that applies to the initial * restricted security.

Note: The definition of * restricted securities says that * securities issued on the * conversion of * restricted securities are themselves * restricted securities.

OPTIONS THAT ARE RESTRICTED SECURITIES.

17.12. Options that are * restricted securities must have a different expiry date to any quoted options. If a * listee offers options under a prospectus, Product Disclosure Statement or information memorandum, any of those options that are * restricted securities must expire at least 1 month before options offered under the prospectus, Product Disclosure Statement or information memorandum.

Cross reference: **Rule 4.36.**

CERTIFICATES FOR RESTRICTED SECURITIES.

17.13.1. A * listee must issue certificates for all * restricted securities. The certificate must state that the * securities are * restricted securities, are not * quoted on * APX and the date on which they will cease to be * restricted securities.

17.13.2. This **Rule** does not apply to existing * restricted securities that are quoted, unless the * listee asks for * quotation to be ended during the escrow period.

Note: * Bonus securities, * securities issued on exercise or * conversion of * restricted securities, and * securities issued on paying up of * restricted securities will be certificated if they are not in a * class of approved * securities.

Cross reference: **Rules 7.1.1.**

DEPOSIT OF THE CERTIFICATES FOR ADDITIONAL RESTRICTED SECURITIES.

17.14. A * listee must deposit any new certificates for additional * restricted securities with the bank or recognised * trustee which holds the certificates for the initial * restricted securities. The * listee must give * APX a further undertaking from the bank or recognised * trustee in respect of those * securities within 2 * business days after they are issued.

NOTING RESTRICTED SECURITIES IN SECURITIES REGISTER.

17.15. A * listee must identify in its * securities register any * securities that are * restricted securities.

TREATMENT OF RESTRICTED SECURITIES IN A TAKEOVER OR MERGER.

APX CONSENT TO SALE OF RESTRICTED SECURITIES.

17.16. To enable the holder of * restricted securities to accept an offer under a * takeover or to enable * restricted securities to be transferred or cancelled as part of a merger by way of scheme of

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arrangement under the *Act, *APX may consent to the bank or recognised trustee releasing the certificates.

CONDITIONS FOR APX'S CONSENT.

- 17.17.1.** *APX will not consent under **Rule 17.16** unless, to the extent to which they are applicable, all of the following conditions are met.
- 17.17.2.** In the case of a *takeover, the offers are for all of the ordinary *securities and, if the *restricted securities are not ordinary *securities, all the *securities in the same *class as the *restricted securities.
- 17.17.3.** In the case of a *takeover, holders of at least half of the *securities that are not *restricted securities to which the offers relate have accepted.
- 17.17.4.** In the case of a *takeover, if the offer is conditional, the offeror and the holder agree in writing that the certificates will be returned to the bank or recognised *trustee, for each *restricted security that is not bought by the offeror under the offer.
- 17.17.5.** In the case of a merger by way of scheme of arrangement under the *Act, the holder and the *trustee in which the *restricted securities are held agree in writing that the certificates will be returned to the bank or recognised *trustee, if the merger does not take effect.

Note: If the holding is certificated and the *takeover does not proceed or the merger does not take effect, a new undertaking must be given by the bank or recognised *trustee under **Rule 17.4**.