

CHAPTER 8

CONTINUING OBLIGATIONS – CONTINUOUS DISCLOSURE

Chapter 8.
Continuing Obligations – Continuous Disclosure.

CHAPTER 8 - SCOPE OF CHAPTER
CONTINUING OBLIGATIONS – CONTINUOUS DISCLOSURE

This **Chapter** sets out certain continuing obligations which a *listee is required to observe once any of its *securities have been admitted to *quotation. Additional continuing obligations are set out in the following **Chapters**:

- **Chapter 9:** financial information.
- **Chapter 10:** transactions.
- **Chapter 11:** transactions with *related parties.
- **Chapter 12:** circulars.
- **Chapter 13:** documents not requiring prior approval.
- **Chapter 14:** purchase of own *securities.
- **Chapter 15:** *directors.

Observance of the continuing obligations is essential to the maintenance of an orderly market in *securities and to ensure that all users of the market have simultaneous access to the same information. Failure by a *listee to comply with any applicable continuing obligation may result in *APX taking any or all of the steps described in **Chapter 2**.

When notifying information to *APX Announcements Office, *listees are recommended to follow the News Service Guidelines published by *APX.

When notifying a substantial interest in *securities (see **Rule 8.17**) *listees are recommended to use the form issued by *APX for this purpose (see **Appendix 8-1**).

CONTINUOUS DISCLOSURE FOR LISTEE.

- 8.1.1.** Subject to **Rule 8.1.3**, if a *listee becomes aware of information concerning the *listee that a reasonable person would expect to have a material effect on the price or value of its *quoted securities, the *listee (irrespective of any obligation imposed upon a *sponsor) must notify *APX Announcements Office without delay of that information. For the purposes of this Rule, a reasonable person would be taken to expect information to have a material effect on the price or value of *securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell, the first-mentioned *securities.
- 8.1.2.** The requirements of **Rule 8.1.1** are in addition to any specific requirements regarding notification contained in the *Listees' Listing Standards.
- 8.1.3.** **Rule 8.1.1** does not apply to specific information while:
- (a) the information is confidential;
 - (b) a reasonable person who commonly invests in securities would not expect the information to be disclosed; and
 - (c) one or more of the following applies:
 - (i) disclosure of the information would be a breach of a law or in contempt of court;
 - (ii) the information relates to an incomplete proposal or negotiation;
 - (iii) the information is insufficiently definite to warrant disclosure;
 - (iv) the information is generated for the internal management purposes of the *listee;
 - (v) the information is a trade secret.
- 8.1.4.** Information that is required to be disclosed under **Rule 8.1.1** must be notified first to *APX Announcements Office before it is disclosed to any other person.

8.2. [deleted]

E-MAIL DOCUMENT.

- 8.3.1.** A document for release to the market (except a printed *annual report or concise report) must be given to *APX Announcements Office by e-mail.

If a *listee is sending its security holders an annual report that comprises only the financial statements it has lodged with the *ASIC and previously given to *APX Announcements Office, it need not send in an *annual report, but should tell *APX Announcements Office that that is what it is sending to security holders.

Cross reference: **Rule 9.20.1.**

- 8.3.2.** A document given to *APX Announcements Office must be on the *listee's letterhead, unless a form prescribed by the *Listees' Listing Standards or an Australian law is used. The document or form must be dated and authorised by an identified, authorised officer of the

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*listee. If a document cannot conveniently be put in letter form, the *listee must give *APX Announcements Office a covering letter with it.

Note: *APX Announcements Office will supply bar codes for attachment to each release.

Example: An annual report or prospectus would be given to *APX Announcements Office under cover of a letter.

DOCUMENTS NOT FOR RELEASE TO THE MARKET.

8.4. If a document is not for public release, the *listee must prominently mark the document to make that clear. Information in a document that is marked in that way may be released to the market after *APX Announcements Office has notified the *listee of that intention.

Note: *APX Announcements Office will normally only release information in a document after *APX Announcements Office has told the *listee that it will do so.

Example: A document marked on the front page “not for public release” meets this requirement.

LISTEE NOT TO RELEASE INFORMATION TO OTHERS BEFORE APX.

8.5. A *listee must not release information that is for release to the market to any person until it has given the information to *APX Announcements Office and has received an acknowledgement that *APX Announcements Office has released the information to the market.

Note: This **Rule** prohibits a *listee giving information to the media even on an embargoed basis.

*APX Announcements Office sends an acknowledgement by fax after releasing information to the market.

Cross reference: **Rule 8.6.**

Note: APX Announcements Office hours are 8.30 am to 5.30 pm Melbourne time on trading days. Hand deliveries can be made until 5.30 pm.

NO EMBARGO.

8.6. *APX does not recognise an embargo on a document given to it for public release.

CONTINUING OBLIGATIONS OF A FIXED INTEREST ISSUER.

8.7. After it is admitted, a *fixed interest issuer must comply with the following *Listees’ Listing Standards (and need not comply with the others):

(a) In relation to a *listee which has only *quoted *fixed interest securities on issue:

- (i) **Chapter 1;**
- (ii) **Rules 2.1.1 to 2.5 and 2.17.1 to 2.29;**
- (iii) **Chapters 3 to 7;**
- (iv) **Rules 8.1.1 to 8.6, 8.8 to 8.23;**
- (v) **Chapter 9;**
- (vi) **Chapters 12 to 15;**

* See Chapter 1 for defined terms.

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(vii) any **Rules** that *APX specifies either before or after the *listee is admitted.

Note: **Rules 2.1.1 to 2.5, 2.17.1 to 2.29, 8.3.1 to 8.6** and **Chapters 1, and 18** are more in the nature of procedural **Rules**.

(b) In relation to each *listee which does not have *quoted *fixed interest securities on issue:

(i) **Rule 9.12**; and

(ii) any **Rules** that *APX specifies either before or after the *listee is admitted.

NOTIFICATION RELATING TO CAPITAL.

8.8. A *listee must notify *APX Announcements Office without delay (unless otherwise indicated) of the following information:

PROPOSED ISSUE.

(a) A proposed issue of *securities. The *listee must complete **Appendix 4-5** and give it to *APX Announcements Office at the same time.

Note: An agreement which, alone or with another agreement, may result in an issue of *securities is covered by this **Rule**. If the issue of *securities is made immediately following a *listee's decision to issue *securities, the *listee must comply with this **Rule** and **Rule 8.8(c)** at the same time.

For a pro-rata issue to *security holders, see **Chapter 5**.

LODGING PROSPECTUS OR PRODUCT DISCLOSURE STATEMENT OR ISSUING INFORMATION MEMORANDUM.

(b) The lodging of a prospectus or product disclosure statement or issuing of an information memorandum by a *listee. A copy of each prospectus or product disclosure statement must be given to *APX Announcements Office immediately after it is lodged. A copy of each information memorandum must be given to *APX Announcements Office before it is issued.

Note: **Part 1** of **Appendix 4-5** must be completed.

Cross reference: **Rule 8.1.1 to 8.1.4**.

ISSUE OF RESTRICTED SECURITIES.

(c) An issue of *securities that has been made. If any of the *securities issued are *restricted securities, the number of *restricted securities and the date from which they cease to be *restricted securities.

Note: For a pro-rata issue to security holders, see **Chapter 5**.

ALTERATIONS TO CAPITAL STRUCTURE.

(d) Any proposed change in a *listee's capital (in the case of managed investment scheme, interest) structure including the structure of its listed *fixed interest securities, save that an announcement of a new issue may be delayed until the approval of *ASIC has been obtained.

NEW ISSUES OF FIXED INTEREST SECURITIES.

- (e) Where a *listee has *quoted fixed interest securities, any new issues of *fixed interest securities, and in particular any guarantee or security in respect thereof.

CHANGES OF RIGHTS ATTACHING TO SECURITIES.

- (f) Any change in the rights attaching to any *class of *quoted securities (including any change in loan terms or in the rate of interest carried by a *fixed interest security) or to any *securities into which any *quoted securities are convertible.
- (g) In the case of *convertible securities, an event has occurred that gives *security holders a right of conversion or exercise, and details of the conversion or exercise period.

CALLS OF CAPITAL.

- (h) Details of a call to be made on its *securities (in the case of a managed investment scheme, an installment to be made on its *securities).

BASIS OF ALLOTMENT.

- (i) The basis of allotment of *quoted securities offered generally to the public for cash and of open offers to security holders.

ISSUES AFFECTING CONVERSION RIGHTS.

- (j) The effect, if any, of any issue of further *securities on the terms of the exercise of rights under options and *convertible securities.

RESULTS OF NEW ISSUES.

- (k) The results of any new issue of *quoted securities. Where the *securities are subject to an underwriting arrangement the *listee may, at its discretion, delay notifying *APX Announcements Office until the obligation by the underwriter to take or procure others to take *securities is finally determined or lapses. In the case of an issue or offer of *securities which is not underwritten, notification of the result must be made as soon as it is known.

EXERCISE BY UNDERWRITER.

- (l) Details of the exercise by an underwriter of a right to avoid or change the underwriter's obligations.

Cross reference: **Rule 8.10(b)**.

NOTIFICATION RELATING TO TAKEOVERS.

LISTEE MAKING A TAKEOVER.

8.9.1 If a *listee, or one of its subsidiaries, extends the time for acceptances under a *takeover, the *listee must immediately advise *APX Announcements Office of the following information:

- (a) the percentage of *securities in the target to which the offeror was entitled when the first offers under the *takeover were made; and

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- (b) the percentage of *securities in the target to which the offeror is entitled at the date of the extension.

8.9.2 If a *listee, or one of its subsidiaries, has successfully completed a *takeover, the *listee must advise *APX Announcements Office of the following information. It must do so at least half an hour before the commencement of trading on the *business day following the last date of the *takeover period.

- (a) the percentage of *securities, and in which relevant *class, to which the offeror is entitled; and
- (b) whether compulsory acquisition will, or will not, proceed.

Cross reference: **Rules 2.17, 2.26.1, 2.26.2.**

8.9.3 Within 10 *business days after the close of a *takeover, a *listee must give *APX Announcements Office the following information.

- (a) if the *listee (or one of its subsidiaries) was the offeror under the *takeover, and the consideration was *equity securities in the *listee, a distribution schedule as set out in **Rule 9.10.8**, including the names of, and percentages held by, the 20 largest holders of *securities, as set out in **Rule 9.10.10**; or
- (b) if the *listee was the target under the *takeover, and compulsory acquisition will **not** proceed, a distribution schedule as set out in **Rule 9.10.8**; including the names of, and percentages held by, the 20 largest holders of *securities, as set out in **Rule 9.10.10**.

OPTIONS.

8.10 A *listee must advise *APX Announcements Office of the following information:

- (a) A change to the exercise price of an option, or the number of *underlying securities over which the option is exercisable, and the date on which the change becomes effective. The *listee must advise APX at least 5 *business days before the change becomes effective.
- (b) Immediately after entering into an underwriting agreement for the exercise of options, the *listee must advise *APX Announcements Office of the name of the underwriter and the fee or commission payable.

MEETINGS.

8.11 A *listee must advise *APX Announcements Office of the following information:

- (a) Where directors are to be elected by a meeting of *security holders, the *listee must advise *APX Announcements Office of the date of the meeting, at least 5 *business days before the closing date for the receipt of nominations.

Cross reference: **Rule 12.7.**

- (b) The outcome in respect of each resolution being put to a meeting of *security holders. The *listee must do so immediately after the meeting has been held. If the meeting is adjourned, the *listee must immediately advise *APX Announcements Office of

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the adjournment and the outcome in respect of each resolution dealt with before the adjournment.

- (c) The contents of any prepared announcement (including any prepared address by the chairperson) that will be delivered at a meeting of *security holders. A copy must be given to *APX Announcements Office no later than the start of the meeting.

Note: * APX does not recognise embargoes on the release of information. See **Rule 8.6**.

If other material information is released at the meeting, the * listee must immediately tell * APX Announcements Office. See **Rule 8.1.1**.

OFFICES.

- 8.12** A * listee must immediately advise * APX Announcements Office of a change of its *registered office or principal administrative office.

REGISTERS.

- 8.13** A * listee must immediately advise * APX Announcements Office of the following information.

- (a) Any change of address of an office at which a register of its * securities is kept.
- (b) Any proposal to cease operating a register (or sub-register) of its * securities in Australia. It must do so at least 20 *business days before the date the register (or sub-register) will cease to operate. The * listee must also advise * APX Announcements Office of any subsequent address of the register (or sub-register) on which * securities will be recorded.

Cross reference: **Rules 7.1.1, (deleted)**.

CHANGE OF CHAIRPERSON, DIRECTORS, RESPONSIBLE LISTEE, MANAGEMENT COMPANY, AUDITORS ETC.

- 8.14** A * listee must immediately advise * APX Announcements Office of the following information:

- (a) A change of chairperson, * director, chief executive officer (or equivalent), or company secretary.
- (b) If the * listee is a managed investment scheme:
- (i) a change of the * responsible entity (or the chairperson, * director, chief executive officer (or equivalent) or secretary of the * responsible entity) or * trustee or custodian;
- (ii) if the scheme is a managed investment scheme, the names of the members of the first compliance committee (if any) and any change in members of the compliance committee.
- (c) A change of its * auditor.

Note: When a * listee advises * APX Announcements Office of a change under **Rules 8.14**, the position of the new person should be given

ADDITIONAL DISCLOSURE IF LOANS ARE AN ASSET

8.15 If *APX asks, a *listee with loans included in its assets must appraise *APX Announcements Office of the following information:

- (a) the amount of each loan;
- (b) the identity of the borrower, and any direct or indirect interest which a *director of the *listee has in the borrower;
- (c) the security held;
- (d) the interest rate;
- (e) the maturity date; and
- (f) any other information in relation to the loan that *APX asks for.

OWNERSHIP LIMITS.

8.16 If a *listee's constitution or a law (other than the *Act or the Foreign Acquisitions and Takeovers Act) restricts the ownership or control of the *listee's *securities or control of the votes attaching to the *listee's *securities ("ownership restriction"), and the *listee becomes *aware that the ownership restriction has been or is about to be breached, the *listee must immediately provide details to *APX Announcements Office and to notify *APX of the action the *listee will take to rectify the breach.

NOTIFICATION OF SUBSTANTIAL INTERESTS IN SECURITIES.

8.17 A *listee must notify *APX Announcements Office without delay (by the end of the business day following the receipt of the information by the *listee) of any information disclosed to it in accordance with Chapter 6C of the *Act. The notification must also include the following details:

- (a) the date on which the information was disclosed to the *listee; and
- (b) the date on which the transaction was effected, if known.

Note: When notifying a substantial interest in *securities under this Rule *listees are recommended use of the form issued by the *APX for this purpose (see **Appendix 8-1**)

RIGHTS AS BETWEEN HOLDERS OF SECURITIES.

FAIR TREATMENT.

8.18 A *listee having *quoted securities must ensure fair treatment for all holders of its *securities.

COMMUNICATION WITH SECURITY HOLDERS.

PRESCRIBED INFORMATION TO SECURITY HOLDERS.

8.19 A *listee must ensure facilities and information are available to enable holders of such *securities to exercise their rights. In particular it must:

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- (a) inform holders of *securities of the holding of meetings which they are entitled to attend;
- (b) enable them to exercise their right to vote, where applicable; and
- (c) publish notices (in a newspaper or on the *listee's website) or distribute *circulars giving information on:
 - (i) the allocation and payment of dividends (in the case of a managed investment scheme distributions) and interest;
 - (ii) the issue of new *securities, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the *securities; and
 - (iii) redemption or repayment of the *securities.

COPIES OF CIRCULARS AND RESOLUTIONS.

8.20 The *listee must forward to *APX Announcements Office:

- (a) all *circulars, notices, reports, announcements or other documents at the same time as they are issued; and
- (b) all resolutions passed by the *listee other than resolutions concerning ordinary business at an annual general meeting without delay after the relevant general meeting.

MISCELLANEOUS OBLIGATIONS

BOARD DECISIONS.

8.21 Decisions by the *board of *directors of a *listee, on dividends and/or distributions, profits and other matters requiring announcement must be notified to *APX Announcements Office without delay and not later than 8.30 am on the next following *business day.

CHANGE OF NAME.

8.22 A *listee which changes its name must without delay:

- (a) after the change takes effect, notify *APX Announcements Office of the change, stating the date on which it has taken effect; and
- (b) where applicable, inform *APX Announcements Office in writing upon receipt of the revised certificate of incorporation (in the case of a managed investment scheme, a copy of the revised certificate of registration) issued by the *ASIC, enclosing a copy of that document.

CHANGES IN DIRECTORS INTEREST.

8.23 Each *listee must ensure that each *director of the *listee notifies the *listee of changes in the director's interest and contracts involving *securities of the *listee (as if section 205G of the *Act applied in relation to all directors of all *listees). On receipt of each such notice from a *director, the *listee must provide a copy of the notice to the *APX Announcements Office.