
3. SPONSORS

Chapter 3 sets out the requirements for appointment as and the obligations of, a sponsor of the APX market.

Role and requirement for sponsors

- 3.1 If an **applicant** makes an application to become a **listee**, the **applicant** must engage a **sponsor** to advise the **applicant** in connection with the application, unless **APX** determines otherwise.
- 3.2 During the first two years (or such shorter period as **APX** may, at the request of the **applicant** and its own discretion, agree) of being admitted to the **official list**, the **listee** must engage a **sponsor** to advise it in relation to its obligations under these **Rules** and the operation of the **Business Rules**.
- 3.3 Each **applicant** and **listee** must advise **APX** in writing (providing a copy to the **sponsor**) of the resignation or dismissal of any **sponsor** and where a **sponsor** is dismissed, inform **APX** in writing immediately of the reason for the dismissal. Where the **applicant** or **listee** is required by **Rule 3.1** or **3.2** to engage a **sponsor**, it must promptly engage a replacement **sponsor** unless **APX** determines otherwise.

Becoming a sponsor

Application procedure

- 3.4 A person may apply to **APX** for admission as a **sponsor**.
- 3.5 The application must be in the form approved by **APX** and signed by the person.
- 3.6 **APX** may request, and the applicant must provide, such additional information in relation to an application as **APX** reasonably requires to assess the application.

Admission requirements

- 3.7 A person who wishes to be admitted as a **sponsor** must:
 - (a) be a **financial services licensee** or a law firm or accounting firm as approved by **APX**;
 - (b) satisfy **APX** that it is competent to discharge the responsibilities of a **sponsor**;
 - (c) give an undertaking to **APX** in the form set out in **Appendix 3-1**; and
 - (d) pay to **APX** all prescribed fees.

Approval of application

- 3.8 Subject to **Rule 3.9**, **APX** has the absolute discretion in determining whether to accept or refuse an application under **Rule 3.4**.

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- 3.9 **APX** must refuse an application under **Rule 3.4**, if the applicant does not satisfy the requirements of **Rule 3.7** or if **APX** forms the opinion (on reasonable grounds) that the applicant:
- (a) is not of good fame and character and high business integrity; or
 - (b) is the subject of a banning order under section 920A of the **Act**.
- 3.10 In considering whether or not an applicant is of good fame and character, but without limiting the discretion of **APX**, **APX** is entitled to take into account:
- (a) any conviction of the applicant (or its officers or principals) for any offence (other than a traffic offence) and whether the applicant (or its officers or principals) has been charged with such an offence at any time; and
 - (b) whether the applicant (or any of its officers or principals) has at any time been adversely mentioned in a report made by or at the request of any government, governmental authority or agency.
- 3.11 An applicant whose application for admission as a **sponsor** is refused under **Rule 3.8** has no right to appeal against the refusal.

Register

- 3.12 **APX** must maintain a register of **sponsors** recording the following information about each **sponsor**:
- (a) the name and business address of the **sponsor**; and
 - (b) such other details as may be prescribed by **APX**.
- 3.13 Each **sponsor** must provide to **APX** such information about the **sponsor** as **APX** may reasonably request in order to maintain the register of **sponsors**.
- 3.14 **APX** may publish details set out in the register as it thinks fit and no **sponsor** has any claim against **APX** in relation to such publication.

Obligations of a sponsor

General

- 3.15 Where a **listee** engages a **sponsor** or otherwise consults a **sponsor** to give guidance or advice in relation to the application or interpretation of these **Rules**, that **sponsor** must, with due care and skill, advise the **listee** as to the application or interpretation of the relevant **Rules**.
- 3.16 The **sponsor** is responsible for providing the primary point of contact between each **applicant** or **listee** for which it acts and **APX** in relation to a listing application or any matter concerning the **listee**.
- 3.17 Notwithstanding the provisions of this **Chapter 3**, **APX** may, in appropriate circumstances, communicate directly with the **applicant** or **listee** or the adviser of the **applicant** or **listee**.
- 3.18 The **sponsor** must advise the **listee** of the **listee's** on-going obligations under these **Rules**.

Example: Continuous disclosure obligations under **Chapter 11** of these **Rules**.

- 3.19 The **sponsor** must have adequate arrangements in place with the **listee** to assist the **listee** comply with its on-going obligations under these **Rules**
- 3.20 While the **sponsor** is engaged by the **applicant** or **listee** and owes duties to the **applicant** or **listee**, the **sponsor** owes its primary duty of care and good faith to **APX** and if any duty owed by the **sponsor** to the **applicant** or **listee** conflicts with its duty to **APX**, the **sponsor** must give preference to its duty to **APX**.

Listing applications – sponsor obligations

- 3.21 In relation to a listing application in respect of which the **sponsor** has been engaged by the **applicant**, the **sponsor** must:
- (a) complete and submit to **APX** a sponsor's declaration in the form as set out in **Appendix 3-3**;
 - (b) advise the directors of the **applicant**, or in the case of an **applicant** that is a **managed investment scheme**, its responsible entity, about the nature of the **applicant's** responsibilities and obligations under these **Rules**; and
 - (c) ensure that all necessary documents supporting an application are lodged with **APX**.
 - (d) satisfy itself, to the best of its knowledge and belief, having made all reasonable enquiries of the **applicant** and its advisers, that the **applicant** has satisfied all applicable conditions for admission to the **official list** and for **quotation** of its **securities** and other relevant requirements of these **Rules**.
 - (e) submit to **APX** (marked for the attention of the Listing Applications Department) no later than the date on which any documents in connection with the transaction are first submitted to **APX** for approval a confirmation of independence in the form set out in **Appendix 3-2**. A **sponsor** is not prohibited from executing a confirmation of independence set out in **Appendix 3-2** if the **sponsor** has a current or previous interest in the **applicant**, so long as the **sponsor** discloses such interest to **APX**. If **APX** determines that the **sponsor's** ability to be engaged by the **applicant** is conditional upon certain restrictions or requirements, then such restrictions or requirements must be satisfied before the **sponsor** can be engaged by the **applicant**.
 - (f) provide a written report in accordance with **Rules 3.22** and **3.23**;
 - (g) provide to **APX** any information or explanation known to it in such form and within such time limit as **APX** may reasonably require for the purpose of verifying whether these **Rules** are being and have been complied with by any **applicant** that has engaged it.

Working capital

- 3.22 Where an **applicant** or **listee**:
- (a) prepares **listing particulars** for the purpose of admission to the **official list**;
 - (b) proposes to engage in a refinancing or reconstruction of the **listee** or its **group**; or
 - (c) is otherwise required by these **Rules** to provide **APX** with a working capital statement,

the **applicant** or **listee** must engage a **sponsor** to prepare a written report to **APX** stating that the **sponsor** has obtained written confirmation from the **applicant** or **listee** that:

- (d) either:
 - (i) the working capital available to the **applicant** or **listee** is sufficient for its present requirements and is at least \$300,000; or
 - (ii) the working capital reasonably expected to be available to the **applicant** or **listee** will be sufficient for its present requirements after the admission, refinancing or reconstruction and will be at least \$300,000 after taking into consideration the budgeted revenue for the first full financial year after listing, refinancing or reconstruction;
- (e) the **sponsor** is satisfied that the confirmation has been given after due and careful enquiry by the **applicant** or **listee**; and
- (f) the persons or institutions providing finance have stated in writing that the relevant financing facilities exist.

Profit forecast

- 3.23 The **applicant** or **listee** must engage a **sponsor** to prepare a written report to **APX** stating that any profit forecast or estimate in the **listing particulars** has been made after due and careful enquiry by the **applicant** or **listee**.

Monitoring and enforcing sponsor obligations

- 3.24 **APX** may monitor a **sponsor's** compliance with these **Rules**. If requested by **APX**, a **sponsor** must provide to **APX** any information or explanation known to it in such form and within such time limit as **APX** may reasonably require for the purpose of verifying whether these **Rules** are being and have been complied with by the **sponsor**.
- 3.25 If **APX** considers that a **sponsor** has breached any of its obligations under these **Rules** it may take action to enforce compliance with these rules as set out in **Chapter 23**.
- 3.26 **APX** may terminate the admission of a person as a **sponsor** in the circumstances set out in **Chapter 23**.