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## 4. ADMISSION AS A LISTEE

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*Chapter 4 sets out the admission criteria for applicants wishing to list on the APX market and APX powers and obligations with respect to listing applications.*

### Applications for Listing on the APX Market

#### APX powers

- 4.1 For an **applicant** to be admitted to the **official list**, **APX** must be satisfied that the **applicant** will comply with these **Rules**.
- 4.2 An **applicant** is admitted to the **official list** in the particular category in which **APX** decides to admit it.
- 4.3 In assessing each application, **APX**:
- (a) must take into account the particular circumstances of each **applicant**;
  - (b) may use any information available to it or in the public domain;
  - (c) may in its discretion grant admission to the **official list** even though all the requirements have not been met; and
  - (d) may in its discretion refuse admission to the **official list** even though all the requirements have been met.
- 4.4 Any information and documentation provided to **APX** in support of an application for admission to the **official list** will become the property of **APX**. At **APX's** discretion, any of these documents may be made available to the public.
- 4.5 **APX** may grant admission to the **official list** subject to any conditions which **APX** considers appropriate in its absolute discretion (including in relation to any corporate governance requirements to be imposed on an **applicant**).
- 4.6 Compliance with relevant conditions may not of itself ensure an **applicant's** suitability for admission to the **official list**.
- 4.7 If **APX** decides to admit an **applicant** on conditions, the **applicant** is admitted when the conditions are met or if **APX** accepts undertakings to meet them, on a date determined and notified to the applicant by **APX**.
- 4.8 If **APX** decides to admit an **applicant** unconditionally, the **applicant** is admitted on the date determined and notified to the **applicant** by **APX**.
- 4.9 **APX** may (at its discretion and subject to such conditions as it may specify) admit to the **official list** an **applicant** which has been, or proposes to be, concurrently admitted to the official list of another exchange.
- 4.10 **APX** may, in its absolute discretion, admit an applicant to the **official list**. **APX** may grant or refuse admission without giving any reasons.
- 4.11 An **applicant** refused admission to the **official list** has no right to appeal against the refusal.

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## Applications for admission

- 4.12 An **applicant** seeking admission to the **official list** must pay fees in accordance with **Chapter 25** and engage a **sponsor** in accordance with the requirements set out in **Chapter 3**.
- 4.13 An **applicant** must, within the time specified by **APX**, provide to **APX** all information, documents or explanations that **APX** requests for the purpose of deciding whether to grant an application for admission.
- 4.14 **APX** may seek additional information from the **applicant**, or any other person, including the relevant **sponsor**, in relation to the application for admission. **APX** may submit, or require the **applicant** to submit, any information given to **APX** to the scrutiny of an expert selected by **APX**. The **applicant** must pay for the expert.
- 4.15 For an **applicant** that wishes to be admitted to the **official list** and have its **equity securities** quoted, the **applicant** must complete **Appendix 4-1** and submit it to **APX**.
- 4.16 For an **applicant** that wishes to be admitted to the **official list** and have its **fixed interest securities** quoted, the **applicant** must complete **Appendix 4-2** and submit it to **APX**.
- 4.17 For an **applicant** that wishes to be admitted to the **official list** as a **foreign exempt listing**, the **applicant** must complete **Appendix 4-3** and submit it to **APX**.

## APX Official List - admission criteria for all applicants

### Appropriate structure and operations

- 4.18 An **applicant's** structure and operations must be appropriate for a **listee**.
- 4.19 The **applicant's** primary business activity at the date it seeks admission to the **official list** must be substantially the same as it was during the last 3 financial years, unless **APX** determines otherwise.

### Incorporation

- 4.20 An **applicant** must be duly incorporated or otherwise validly established according to the relevant laws of Australia or another country, and be operating in conformity with its **constitution**.
- 4.21 The **applicant's constitution** must be consistent with these **Rules**.
- 4.22 **Rule 4.21** does not apply if the **applicant's constitution** includes the following rules (as applicable):

“The following rules apply if the **applicant** is granted admission to the **official list** of **APX**:

- (a) if the **Rules** require an act being done, no rule in this **constitution** prevents that act being done;
- (b) if these **Rules** require an act to be or not to be done, this **constitution** permits that act to be done or not to be done (as the case may be);
- (c) notwithstanding anything contained in this **constitution**, where these **Rules** prohibit an act being done, the act must not be done;

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- (d) this **constitution** is deemed to contain any rule that the **Rules** require the **constitution** to contain;
  - (e) this **constitution** is deemed not to contain any rule that the **Rules** require the **constitution** not to contain; and
  - (f) this **constitution** is deemed not to contain a rule to the extent that it is inconsistent with any of the **Rules**.”

### Security offer document

- 4.23 An **applicant** must issue a **security offer document**. **APX** may, in its absolute discretion, determine that an **information memorandum** that complies with **Appendix 4-1** can be issued in place of a **security offer document** where the following conditions are met:
- (a) the **applicant** has not raised capital in the past 3 months and does not reasonably expect that it will need to raise capital in the 3 months after admission;
  - (b) the **applicant** meets the spread requirements in **Rule 4.28**; and
  - (c) the **applicant** sends the **information memorandum** to **security holders** or disseminates the **information memorandum** in a manner acceptable to **APX**.
- 4.24 If the **applicant** is a foreign entity the following rules apply:
- (a) it must establish and maintain in Australia an Australian securities register (or sub-register) or a register of **depository interests**;
  - (b) it must appoint an agent for service of process in Australia; and
  - (c) it must be registered as a foreign company under the **Act**.

### Financial statements

- 4.25 An **applicant** must have published or lodged **financial statements** and a copy must be given to **APX** which:
- (a) subject to **Rule 4.26**, in respect of at least the last three years and the latest **financial statements** must be in respect of a period ended not more than six months before the date of the **listing particulars**;
  - (b) are consolidated **financial statements** in respect of the **applicant** and all its **controlled entities**, unless **APX** otherwise agrees;
- Cross-reference: **Rule 1.15**.
- (c) have been prepared in accordance with the **Act** and, in all material respects, with the **Australian Accounting Standards** (or if the **applicant** is a foreign entity **International Financial Reporting Standards** or other standards approved by **APX** which are of an equivalent regulatory standard to the **Australian Accounting Standards**); and
  - (d) have been independently audited, in accordance with the **Australian Auditing Standards**. If the **applicant** is a foreign entity, the audit may be conducted in accordance with relevant auditing standards in a jurisdiction approved by **APX** which are of an equivalent regulatory standard to the **Australian Auditing Standards** and may be conducted by an overseas equivalent of an **auditor**.

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- 4.26 In relation to **Rule 4.25(a), financial statements** relating to a period of less than three years may be accepted if **APX** is satisfied that:
- (a) investors have the necessary information available to arrive at an informed judgement concerning the **applicant** and its **securities**;
  - (b) where the application is in respect of **fixed interest securities** which are guaranteed by a person other than the **applicant**, the guarantor has published or filed audited **financial statements** in respect of at least the last three years; or
  - (c) where the application is in respect of **fixed interest securities**, the obligations created in respect of those **securities** are fully secured.
- 4.27 **APX** in its discretion may require that a reviewed pro forma balance sheet in respect of the **applicant** together with the review be given to **APX**. The review must be conducted by an **auditor**. The **auditor** must be independent of the **applicant** and comply with guidelines on independence issued by the **Australian Auditing Standards**. If the **applicant** is a foreign entity, the review may be conducted in accordance with other standards agreed by **APX** which are of an equivalent regulatory standard to the **Australian Auditing Standards** and may be conducted by an overseas equivalent of an **auditor**.

#### **Minimum spread requirements**

- 4.28 An **applicant**, other than an issuer of **fixed interest securities**, must satisfy the following conditions:
- (a) have at least 50 **security holders** each having a holding of the **main class** of **securities** with a value of at least \$2,000 (excluding **restricted securities**);
  - (b) have at least 25% (or such lower percentage as **APX** may determine in respect of the **applicant**) of its **main class** of **securities** held by **security holders** who are not **related parties** of the **applicant** (excluding **restricted securities**); and
  - (c) maintain sufficient spread of **securities** to promote liquidity in its stock.

Cross-reference: **Rule 13.15**.

#### **Market capitalisation or assets**

- 4.29 Notwithstanding any other **Rule**, an **applicant**, other than an issuer of **fixed interest securities**, must have a **market capitalisation** of at least \$2 million. Further issues of **securities** of a **class** already **quoted** are not subject to this limit.

#### **Additional admission requirement for issuers of fixed interest securities**

- 4.30 An **applicant** for admission to the **official list** as an issuer of **fixed interest securities** must satisfy the following conditions:
- (a) the **applicant** must be:
    - (i) a public company limited by shares or a **managed investment scheme**;  
or
    - (ii) if permitted under the conditions of **APX's** Market Licence issued under the Act, a government borrowing authority, a public authority, or other person approved by **APX**;

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- (b) the **applicant** must apply for and be granted **quotation** of all the **fixed interest securities** that are in the **class** for which it seeks **quotation**.
  - (c) if the **applicant** is a company and its shares are not **listed securities** on **APX**, the **listee** must have net assets of at least \$2 million and the nominal amount of each **class of fixed interest securities** for which listing is sought must be at least \$500,000 or such other amount as **APX** may from time to time determine. Further issues of **fixed interest securities** which are uniform in all respects with **fixed interest securities** of a **class** already listed are not subject to these limits.
  - (d) there must be at least 25 **security holders** of the **fixed interest securities**.

#### **Additional requirements for foreign exempt listing**

- 4.31 An **applicant** for admission to the **official list** as a **foreign exempt listing** must satisfy the following conditions:
- (a) the **applicant** must be a foreign entity and its **overseas home exchange** must be a stock exchange or market which is a **recognised overseas exchange**;
  - (b) the **applicant** must be subject to the listing rules (or their equivalent) of its **overseas home exchange**. This **Rule 4.31(b)** will not be waived by **APX**;
  - (c) the **applicant** complies with the listing rules (or equivalent) of its **overseas home exchange** and **APX** must have received a statement signed by a least 2 directors of the applicant certifying the compliance;
  - (d) the **applicant** must give **APX** a copy of its last **annual report** and any subsequent interim report and agree to give **APX**, after admission to the **official list**, additional copies of those documents as specified in **Appendix 4-3** or as requested by **APX**;
  - (e) the **applicant** may only apply for **quotation** of **securities** of the **class** already quoted on its home exchange;
  - (f) the requirements for **financial statements** for foreign entities as set out in Rule 4.25.

#### **Additional requirements for managed investment schemes**

- 4.32 If an **applicant** is a **managed investment scheme**:
- (a) it must be a 'registered scheme' as defined in section 9 of the **Act**; and
  - (b) the **applicant** must have net tangible asset of at least \$2 million.
- 4.33 If a **Rule** imposes an obligation on a **managed investment scheme** or an undertaking to which interests in the **managed investment scheme** relate, the **responsible entity** of the **managed investment scheme** or the undertaking must make sure that the **managed investment scheme** complies with the **Rule**.

Cross-reference: Section 793C of the **Act**.

#### **Listing application to satisfy requirements of approved settlement facility**

- 4.34 An **applicant** must satisfy any requirements of an **approved settlement facility** relating to the **applicant's securities** to be quoted. However, this requirement does not apply to an

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**applicant** established in a jurisdiction whose laws have the effect that the **applicant's securities** cannot be approved under the rules of the **approved settlement facility**.

- 4.35 An **applicant** established in a jurisdiction whose laws have the effect that the **applicant's securities** cannot be approved under the rules of the **approved settlement facility** must have **depository interests** issued over quoted **securities** for any **security holder** that asks for **depository interests**.

#### **Compliance with approved settlement facility requirements**

- 4.36 Without limiting **Rule 4.34**, upon applying for admission to the **official list**, an **applicant** agrees to comply with the following obligations imposed by an **approved settlement facility**, at all times when it is a **listee** and its **securities** are **quoted**:
- (a) the **listee** must notify **APX** as soon as practicable after becoming aware of:
    - (i) any error in a transaction involving the **listee's securities** in respect of which an **approved settlement facility** provides services and which may affect the provision of those services in respect of that transaction;
    - (ii) any dispute between **market participants** concerning the **listee's securities** in respect of which an **approved settlement facility** provides services and which may affect the provision of those services in respect of that transaction;
    - (iii) any other error or dispute relating to the services provided by the **approved settlement facility** in respect of the **listee's securities**; and
    - (iv) any cancellation of any transaction involving the **listee's securities** in respect of which the **approved settlement facility** provides services;
  - (b) the **listee** must promptly notify **APX**:
    - (i) if at any time it becomes aware that it ceases to be in compliance with the admission requirements under these **Rules**, or that an act or event has occurred which would or might reasonably be expected to result in the **listee** ceasing to be in compliance with these **Rules**;
    - (ii) of any default or non compliance by a **listee** which may affect the **listee's** obligations to an **approved settlement facility**;
    - (iii) of any other event which may reasonably be expected to mean that the **listee** cannot meet any obligations under any applicable rule or law to an **approved settlement facility**;
    - (iv) of any information regarding any event or development which may materially and adversely affect the provision of services by an **approved settlement facility** or the ability of the **listee** to meet any obligations under any applicable rule or law or to an **approved settlement facility**;
    - (v) of any event which the **listee** becomes aware which occurs in relation to a **listee**, which might entitle an **approved settlement facility** to take enforcement action in respect of the **listee**;
  - (c) the **listee** must not use branding, trade marks or logos of an **approved settlement facility** in any way other than as authorised under the terms of any agreement with an **approved settlement facility**, and has no right or interest in any intellectual property rights owned or used by the **approved settlement facility** or a related body corporate in connection with the provision of services by the **approved**

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**settlement facility** or arising from, or in connection with, the services of the **approved settlement facility**;

- (d) the **listee** must not do or refrain from doing anything which infringes any intellectual property rights of an **approved settlement facility** or any of its related bodies corporate;
- (e) the **listee** must not make any reference to the branding, trade marks or logos of an **approved settlement facility** or any of its related bodies corporate in any literature or promotional materials or in any marketing or promotional activity without the prior written consent of the **approved settlement facility**;
- (f) the **listee** must not make any statement, written or oral, to any third party concerning the services provided by the **approved settlement facility** or any of its related bodies corporate which is misleading or deceptive or which may adversely affect the reputation or goodwill of the **approved settlement facility** or any of its related bodies corporate.

#### Requirement for listing particulars

4.37 An application for admission to the **official list** must include the following (the **listing particulars**):

- (a) a **security offer document** or **information memorandum** as contemplated by **Rule 4.23**;
- (b) a letter signed by every director of the **applicant** (or by their agent or attorney, with a certified copy of the authority of any such agent or attorney) confirming that the **security offer document** complies with the **Act** or the **information memorandum** complies with the requirements of **Appendix 4-1** and any other conditions imposed by **APX**, as appropriate;
- (c) payment of the appropriate listing fees set out in the **Fee Schedule**;
- (d) a declaration as set out in **Appendix 4-1** or **4-2** signed by a duly authorised officer of the **applicant**;
- (e) a declaration as set out in **Appendix 3-3** signed by a duly authorised officer of the **sponsor**;
- (f) the **sponsor's** working capital letter (see **Rule 3.22**);
- (g) a copy of the certificate of incorporation or equivalent document;
- (h) a letter in respect of the **constitution** stating that the constitution complies with the requirements of these **Rules**. If **security holder** approval to any necessary alteration cannot be obtained before an application for admission to **quotation of securities** is to be considered, **APX** may accept an undertaking to alter these documents to comply with the requirements of **Chapter 7** at the earliest possible opportunity;
- (i) if requested by **APX**, where any corporate **security holder** holds 5% or more of the issued **equity securities**, a declaration by a duly authorised officer of that corporate **security holder**, giving details of its **registered office**, directors, **security holders** and such other details as **APX** requires;
- (j) the **sponsor's** confirmation of independence as set out in **Appendix 3-2** (see **Rule 3.21(e)**);

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- (k) the disclaimer in **Rule 4.40**; and
  - (l) any other document required by **APX**.

#### **Additional listing particular requirements for tap issues**

- 4.38 The **listing particulars** prepared in connection with a **tap issue** must specify the maximum aggregate value of all **fixed interest securities** which can be issued.
- 4.39 The **listing particulars** must contain the general terms and conditions applicable to all **fixed interest securities** that may be issued and listed under the **fixed interest issuance program**.

#### **APX Disclaimer**

- 4.40 **Listing particulars** must carry on the first page of the document (excluding any cover), in a prominent position and in bold type, the following disclaimer:

*Application has been made for listing by the Asia Pacific Exchange Limited of the securities offered by this disclosure document.*

*Listing of the securities by the Asia Pacific Exchange Limited is in no way an indication of the merits of the [name of entity] or the securities.*

*Asia Pacific Exchange Limited takes no responsibility for the contents of this document, and makes no representations as to its accuracy or completeness and expressly disclaims any liability for any loss however arising from or in reliance upon any part of the contents of this document.*

#### **Change of admission category**

- 4.41 **APX** may at any time change a **listee's** admission category from one to another. **APX** may do so on the request of the **listee** or of its own accord. **APX** is not required to act on the **listee's** request. **APX** may require conditions to be satisfied before it will act on the request. Following notification of the change, the **listee** must comply with these **Rules** applicable to the new category.