

# ASX SETTLEMENT OPERATING RULES

## SECTION 13 DEPOSITARY INTERESTS IN CHES

*This Section 13 sets out the Rules governing CHES Depositary Interests and Foreign Depositary Interests and modifies the operation of the Rules in a number of respects.*

*CHES Depositary Interests are units of beneficial ownership in a Principal Financial Product, registered in the name of a Depositary Nominee. They include CUFs, DIs and Government Bond Depositary Interests. Foreign Depositary Interests comprise a beneficial interest in a Participating International Financial Product held by.*

### 13.1 APPLICATION OF CDI RULES

#### 13.1.1 Effect of ~~Rules 13.1 to 13.13~~ Section 13

~~Rules 13.1 to 13.13~~ This Section 13 only applies to, and ~~have~~ has effect in relation to, CDIs issued in respect of a class of Principal Financial Products.

The Rules, to the extent that they are not inconsistent with ~~Rules 13.1 to 13.13~~ Section 13, have full force and effect in relation to CDIs other than as specifically modified by the provisions of ~~these Rules 13.1 to 13.13~~ Section 13.

Introduced 11/03/04 Origin SCH 3A.1.1, 3A.1.2 Amended 06/06/05, [insert date]

#### 13.1.2 Nominee Terms in respect of Principal Financial Products other than Government Bonds

The terms on which a Depositary Nominee holds Principal Financial Products other than Government Bonds are set out in the Nominee Terms for that Depositary Nominee and as supplemented by Section 13. The Nominee Terms and this Section 13 should be read together and are not intended to create conflicting rights or obligations.

The Nominee Terms for a Depositary Nominee are specified in the Procedures and may be varied or replaced only in accordance with the Nominee Terms and the Procedures. The Nominee Terms may relate to all classes of Principal Financial Products other than Government Bonds held by the Depositary Nominee from time to time, or only such classes of those Principal Financial Products specified in the Nominee Terms and the Procedures from time to time.

The Nominee Terms do not form part of these Rules. However, if a Rule requires the Principal Issuer to comply with any part of the Nominee Terms, failure by the Principal Issuer to comply with that part of the Nominee Terms is a contravention of the Rule.

The Principal Issuer undertakes to comply with the provisions of the Nominee Terms.

Introduced [insert date]

### **13.1.3 Government Bonds**

The terms on which a Depository Nominee holds Principal Financial Products that are Government Bonds are set out in Section 13. Despite any other rule in Section 13, the Nominee Terms do not apply in respect of Principal Financial Products that are Government Bonds and references to the Nominee Terms in this Section 13 should be interpreted accordingly and as the context requires.

Introduced [insert date]

## **13.2 PREREQUISITES FOR SETTLEMENT OF INSTRUCTIONS IN PRINCIPAL FINANCIAL PRODUCTS**

### **13.2.1 Approval of person as Principal Issuer**

A person who has applied for:

- (a) a class of Principal Financial Products; or
- (b) CDIs issued over a class of Principal Financial Products,

to be quoted on the market of an Approved Listing Market Operator may apply to ASX Settlement in the form prescribed in the Procedures to:

- (c) act as Principal Issuer in relation to CDIs issued or to be issued in respect of those Principal Financial Products; and
- (d) to have those CDIs approved.

Introduced 11/03/04 Origin SCH 3A.2.1 Amended 10/06/04, 06/06/05, 27/06/11

### **13.2.2 Appointment of Depository Nominee and issue of CDIs**

If ASX Settlement determines to accept an application under ~~Rule~~ 13.2.1, the Principal Issuer must:

- (a) appoint a Depository Nominee for those Principal Financial Products for the purpose of complying with these Rules;
- (b) give Notice to ASX Settlement of:
  - (i) the identity of the Depository Nominee appointed by the Principal Issuer and written confirmation from the Depository Nominee of its agreement to be appointed; and
  - (ii) the Transmutation Ratio for the Principal Financial Products;
- (c) make arrangements satisfactory to ASX Settlement to enable the Principal Issuer to comply with the requirements of Rules 13.4.3 and 13.5; and
- (d) make arrangements satisfactory to ASX Settlement to issue CDIs or make them available in respect of that class of Principal Financial Products to each person who has:
  - (i) an entitlement to those CDIs or Principal Financial Products; and

- (ii) where applicable, not elected to take a document of Title to those Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.2.2 Amended 06/06/05, 21/05/13, [\[insert date\]](#)

### **13.2.3 Vesting arrangements for Principal Financial Products**

If Rule 13.2.2 applies, the Principal Issuer must, either not later than End of Day on the Issue Date for the new Principal Financial Products, or such other time as ASX Settlement requires:

- (a) cause the Title to any Principal Financial Products that are to be held in the form of CDIs to be vested in the Depository Nominee nominated by the Principal Issuer under Rule 13.2.2 [to be held subject to this Section 13 and the Nominee Terms](#), in a manner recognised by Australian law and all applicable foreign laws;
- (b) immediately give Notice to ASX Settlement that Title to the Principal Financial Products has vested in the Depository Nominee; and
- (c) record:
  - (i) the CDIs corresponding to the Principal Financial Products on the CHESSE Subregister or the Issuer Sponsored Subregister, as the case requires; and
  - (ii) the information required to be recorded under these Rules in such manner as to identify each Holder of the CDIs, whether on the CHESSE Subregister or the Issuer Sponsored Subregister.

Introduced 11/03/04 Origin SCH 3A.2.3 Amended 06/06/05, 04/03/13, [\[insert date\]](#)

### **13.2.4 Effective date of approval – CDIs as Approved Financial Products**

Where ASX Settlement determines to accept an application made under Rule 13.2.1, the Commencement Date for CDIs issued in respect of the class of Principal Financial Products will be the date that ASX Settlement notifies the Principal Issuer [and the Depository Nominee](#) that those CDIs are Approved Financial Products, or such other date determined by ASX Settlement.

Introduced 06/06/05 [Amended \[insert date\]](#)

### **13.2.5 CDIs as Approved Financial Products – transitional provision**

From the date on which this rule 13.2.5 comes into effect, all CDIs issued by a Principal Issuer over a class of previously approved Principal Financial Products will be taken to be Approved Financial Products.

Introduced 06/06/05

## **13.3 TRANSMUTATION AND ALTERATIONS OF PRINCIPAL FINANCIAL PRODUCTS**

### **13.3.1 Transmutation of Principal Financial Products to CDIs at Election of Holder**

If a Holder of Financial Products that forms part of a class of Principal Financial Products in respect of which CDIs have been approved gives Notice to the Principal

Issuer, at any time after the date of quotation of the Principal Financial Products, requesting the Transmutation of a quantity of those Principal Financial Products to CDIs, the Principal Issuer must, provided the Notice is accompanied by any corresponding documents of Title:

- (a) as soon as possible, cause Title to the quantity of Principal Financial Products specified in the Notice to be vested in the Depository Nominee for those Principal Financial Products to be held subject to this Section 13 and the Nominee Terms;
- (b) record:
  - (i) the CDIs corresponding to the Principal Financial Products on the CDI Register; and
  - (ii) the information required to be recorded under these Rules in such manner as to identify each Holder of the CDIs, on the CDI Register; and
- (c) give Notice to the Holder that the Transmutation has been effected.

This ~~R~~Rule 13.3 applies to Principal Financial Products that are Government Bonds only in the circumstances specified in the Procedures.

Introduced 11/03/04 Origin SCH 3A.3.1 Amended 06/06/05, 21/05/13, [insert date]

### **13.3.2 Transmutation of Principal Financial Products to CDIs for Settlement Purposes**

Each Participant that is obliged to deliver a quantity of Principal Financial Products to another Participant must, unless otherwise agreed with that Participant, do so by initiating a Message to Transfer the corresponding quantity of CDIs in respect of those Principal Financial Products.

A Participant must not deliver a paper-based transfer of Principal Financial Products to another Participant unless otherwise agreed with that other Participant.

Introduced 11/03/04 Origin SCH 3A.3.2, 3A.3.3

### **13.3.3 Participant may initiate a Transmutation on behalf of a person**

A Participant that is authorised by a person to do so, may Transmute Principal Financial Products to CDIs or CDIs to Principal Financial Products on behalf of the person in any circumstance where Transmutation by that person is permitted under these Rules.

Introduced 11/03/04 Origin SCH 3A.3.4

### **13.3.4 Circumstances in which Depository Nominee may refuse to accept a transfer of Principal Financial Products**

Despite any other Rule in this Section 13, the Depository Nominee may refuse to accept Principal Financial Products:

- (a) if the Depository Nominee forms the view, or is notified by the Principal Issuer, ASX Settlement or an Approved Clearing House, that such acceptance would or might result in the contravention of any applicable law; or

(b) if such action is deemed necessary or advisable by the Depository Nominee at any time:

(i) because of a direction given to the Depository Nominee or its Related Bodies Corporate by any governmental agency or regulatory or supervisory authority, a market or an Approved Clearing House;

(ii) because the Depository Nominee reasonably considers in its discretion that this is required to comply with its Australian financial services licence obligations or any requirement of any such agency, authority, market or Approved Clearing House; or

(iii) if acceptance of the Principal Financial Products may require the Depository Nominee to obtain an approval, licence or other registration from or with any such agency, authority, market or Approved Clearing House,

in each case, whether or not such agency, authority, market or Approved Clearing House is located in an Australian or other jurisdiction.

Introduced [insert date].

## **13.4 CONSEQUENCES OF VESTING TITLE IN DEPOSITARY NOMINEE**

### **13.4.1 Trust for Holders of CDIs**

When Title to Principal Financial Products is vested in a Depository Nominee ~~under these Rules~~, all right, title and interest in those Principal Financial Products is held by the Depository Nominee subject to the right of any person identified, ~~in accordance with these Rules~~, as a Holder of CDIs in respect of those Principal Financial Products to receive all direct economic benefits and any other entitlements in relation to those Principal Financial Products in accordance with the Nominee Terms for that Depository Nominee and as supplemented by Section 13.

The key terms on which the Depository Nominee holds Principal Financial Products are set out in Nominee Terms for that Depository Nominee.

Introduced 11/03/04 Origin SCH 3A.4.1 Amended 17/03/08 [insert date]

### **13.4.2 Identification of CDI Holders**

For the purposes of Rule 13.4.1 and in accordance with the Nominee Terms, a person is (subject to any subsequent disposition) entitled to all direct economic benefits and any other entitlements in relation to Principal Financial Products vested in a Depository Nominee under these Rules if:

(a) in accordance with Rule 13.2.3, the Principal Issuer has recorded the person in the CDI Register as the holder of CDIs for those Principal Financial Products; or

(b) under Rule 13.3.1, the person is the former Holder of the Principal Financial Products to which the CDIs relate, or that person's nominee.

Introduced 11/03/04 Origin SCH 3A.4.2 Amended [insert date]

### 13.4.3 Immobilisation of Principal Financial Products

A Depository Nominee that holds Principal Financial Products under these Rules must:

- (a)
  - (i) where a Certificate is issued as evidence of Title to those Financial Products, make arrangements satisfactory to ASX Settlement for any Certificate representing its holding of Principal Financial Products to be held by the Principal Issuer for safekeeping; or
  - (ii) where the Financial Products are held on account in an Approved Clearing House, ensure that a Segregated Account is maintained in respect of those Financial Products, which must constitute the Principal Register for the purposes of these Rules;
- (b) not dispose of any of those Principal Financial Products unless authorised by these Rules; and
- (c) not create any interest (including a security interest) which is inconsistent with the Title of the Depository Nominee to the Principal Financial Products and the interests of the Holders of CDIs in respect of the Principal Financial Products, other than any interest which routinely arises under the rules of a relevant Approved Clearing House or in connection with the appointment by the Depository Nominee of a custodian to hold the Principal Financial Products, unless authorised by these Rules.

Introduced 11/03/04 Origin SCH 3A.4.3 Amended [insert date]

## 13.5 REGISTERS AND PROCESSING OF TRANSFERS AND TRANSMUTATIONS

### 13.5.1 Issuer to establish and maintain Principal Register and CDI Register

If CDIs in respect of a class of Principal Financial Products are approved, the Principal Issuer must establish and maintain:

- (a) Where the Principal Issuer is a company:
  - (i) a Principal Register that properly records the interest of the Depository Nominee in its Financial Products; and
  - (ii) a CDI Register that contains all of the information that would otherwise be required to be kept under the Corporations Act if the Principal Issuer were an Australian listed public company and the CDI Register were a register of members of that company; or
- (b) Where the Principal Issuer is a Government Bond Issuer:
  - (i) a Principal Register; and
  - (ii) a CDI Register.

For the purposes of paragraph (a)(i), where Financial Products of a Principal Issuer (or an equitable or beneficial interest in Financial Products of a Principal Issuer) are held

by a custodian on behalf of the Depository Nominee under a custody arrangement, the Principal Register together with the records of the custodian must properly record the interest of the Depository Nominee in the Principal Issuer's Financial Products.

Introduced 11/03/04 Origin SCH 3A.5.1, 3A.5.2 Amended 06/06/05, 21/05/13, 05/12/19, [insert date]

### **13.5.2 Reconciliation of Registers**

The Principal Issuer must ensure, at all times that:

- (a) the total number of CDIs on the CDI Register reconciles to the total number of Principal Financial Products registered in the name of the Depository Nominee on the Principal Register and taking into account the Transmutation Ratio, or as otherwise specified in the Procedures; and
- (b) where applicable, it has one or more Certificates registered in the name of the Depository Nominee in its possession which represent the same number of Principal Financial Products as are registered in the name of the Depository Nominee on the Principal Register.

Introduced 11/03/04 Origin SCH 3A.5.3 Amended 06/06/05, 21/05/13, [insert date]

### **13.5.3 Right of Inspection of CDI Register**

If a Principal Issuer is required to establish and maintain a CDI Register under Rule 13.5.1, the Principal Issuer must make its CDI Register available for inspection in Australia to the same extent and in the same manner as if that CDI Register were a register of members of an Australian listed public company.

This Rule 13.5.3 does not apply in respect of a class of Principal Financial Products that are Government Bonds or Principal Financial Products issued by a DI Issuer to the extent that the Principal Register need not be available for inspection where that Principal Register is located in a foreign jurisdiction.

Introduced 11/03/04 Origin SCH 3A.5.4A Amended 21/05/13, 05/12/19

### **13.5.4 Issuer Sponsored Subregisters and CHES Subregisters for CDIs**

If CDIs in respect of a class of Principal Financial Products are approved, the Principal Issuer must establish and maintain:

- (a) an Issuer Sponsored Subregister; and
- (b) a CHES Subregister,

of CDIs in respect of the Principal Financial Products as if the CDIs were Financial Products of an Australian Issuer, issued wholly in uncertificated form.

Introduced 11/03/04 Origin SCH 3A.5.5 Amended 06/06/05

### **13.5.5 Third Party Provider as Agent – [Deleted]**

Introduced 11/03/04 Origin SCH 3A.5.6 Deleted 06/06/05

### 13.5.6 Agents of Principal Issuer

If a Principal Issuer employs or retains a Third Party Provider to establish and maintain a Principal Register or a CDI Register in respect of a class of its Principal Financial Products, then for the purposes of these Rules, the Third Party Provider is taken to perform those services as the agent of the Principal Issuer.

Introduced 11/03/04 Origin SCH 3A.5.7 Amended 06/06/05

### 13.5.7 Depository Nominee obliged to ensure information is provided to Principal Issuer

Notwithstanding Rule 13.5.2, if a Depository Nominee employs or retains a Third Party Provider to administer the Principal Register, which is not the same Third Party Provider as that retained by the Principal Issuer to establish and maintain a CDI Register under Rule 13.5.6, then the Depository Nominee must ensure that its Third Party Provider provides such information to the Principal Issuer at such times as the Principal Issuer requires for performance of its obligations under Rules 13.1 to 13.13.

Introduced 11/03/04 Origin SCH 3A.5.8

### 13.5.8 Power of Attorney

The Depository Nominee appoints the Principal Issuer to be the Depository Nominee's attorney and in the name of the Depository Nominee (or in the name of the Principal Issuer or its delegate) and on the Depository Nominee's behalf:

- (a) to execute any transfer for the purposes of Rule 13.3; and
- (b) to do all things necessary or desirable to give full effect to the rights and obligations of the Depository Nominee in Section 13~~Rules 13.1 to 13.13~~, including (but not limited to) in connection with vesting Title to Principal Financial Products in the Depository Nominee, administering Corporate Actions and taking other actions in accordance with rule 13.6, the appointment of proxies, the revocation of a trust under which the Depository Nominee holds a Principal Financial Product and the giving of notices to Holders and other persons.;

and the Depository Nominee undertakes to ratify and confirm anything done under this power of attorney by the Principal Issuer.

The authority of the Principal Issuer under the power of attorney does not include the revocation of trust by the Depository Nominee under Rule 13.5A.1 but applies in relation to actions of the Depository Nominee following a revocation of trust including (but not limited to) notifications to Holders of CDIs and the distribution of Principal Financial Products and other relevant property.

The Principal Issuer must not do anything under this power of attorney that would cause the Depository Nominee to breach the Nominee Terms or these Rules or any law.

Introduced 11/03/04 Origin SCH 3A.5.9 Amended [insert date]

### 13.5.9 Delegation by Principal Issuer under Power of Attorney

The Principal Issuer may in writing:

- (a) delegate its powers to any person for any period;
- (b) at its discretion, revoke any such delegation; and
- (c) exercise or concur in exercising any power despite the Principal Issuer or a delegate of the Principal Issuer having a direct or personal interest in the mode or result of the exercise of that power.

The Principal Issuer must act in good faith and with due care in selecting the delegate and must monitor them. The Principal Issuer is responsible for any conduct or omission of the delegate as if the conduct or omission was of the Principal Issuer.

Introduced 11/03/04 Origin SCH 3A.5.9A Amended [insert date]

### **13.5.10 Indemnity**

If a Principal Issuer or its Third Party Provider executes a transfer of Principal Financial Products on behalf of a Depository Nominee as transferor or transferee, other than a Transfer which is supported by a Message initiated by a Participant under these Rules, the Principal Issuer ~~warrants to ASX Settlement that it~~ indemnifies:

- (a) the relevant Depository Nominee;
- (b) ASX Settlement; and
- ~~(c) — the transferor or the beneficial owner of the Principal Financial Products, as the case requires; and~~
- ~~(cd)~~ each Participant,

and warrants to ASX Settlement that it indemnifies the transferor or the beneficial owner of the Principal Financial Products, as the case requires, against all losses, damages, costs and expenses that they or any of them may suffer or incur as a result of the transfer not being authorised by the transferor or by the beneficial owner of the Principal Financial Products.

For the avoidance of doubt, Rule 13.5.10 does not apply to a Government Bond Issuer.

Introduced 11/03/04 Origin SCH 3A.5.10 Amended 21/05/13, [insert date]

### **13.5.11 ASX Settlement holds benefit of warranties for Depository Nominee**

~~ASX Settlement holds the benefit of any warranties and indemnities given to it by the Principal Issuer under Rules 13.1 to 13.13 in trust for the benefit of the Depository Nominee.~~

Introduced 11/03/04 Origin SCH 3A.5.10A Deleted [insert date]

### **13.5.12 Principal Issuer and Depository Nominee not to interfere in Transfer and Transmutation**

Unless otherwise permitted under these Rules or the Listing Rules, a Principal Issuer or a Depository Nominee must not refuse or fail to register, or give effect to, or otherwise interfere with the processing and registration of:

- (a) a paper-based transfer of Principal Financial Products;

- (b) a Transfer of CDIs;
- (c) a Transmutation of Principal Financial Products to CDIs;
- (d) a Transmutation of CDIs to Principal Financial Products;
- (e) a shunt from a DI ~~r~~Register to a Principal Register; or
- (f) a shunt from a Principal Register to a DI ~~r~~Register.

Introduced 11/03/04 Origin SCH 3A.5.11, 3A.5.12 Amended 06/06/05 [insert date]

### 13.5.13 No Notice of Unregistered Interests

For the purposes of all relevant Australian and foreign laws, neither ASX Settlement nor any Depository Nominee is affected by actual, implied or constructive notice of any interest in CDIs other than the Holdings on the CDI Register.

A Depository Nominee may deal with the registered Holder of CDIs as if, for all purposes and in accordance with the Nominee Terms, the Holder of CDIs is the absolute beneficial owner of the Principal Financial Products to which the CDIs relate, without any liability whatsoever to any other person who asserts an interest in the CDIs or in the Principal Financial Products to which the CDIs relate or in the rights in respect of them under these Rules or the Nominee Terms.

Introduced 11/03/04 Origin SCH 3A.5.13, 3A.5.14 Amended [insert date]

## 13.5A TERMINATION OF CDI HOLDING BY THE DEPOSITARY NOMINEE

### 13.5A.1 Termination of trust over Principal Financial Products

~~If approval of CDIs in respect of a class of Principal Financial Products is revoked by ASX Settlement, the Depository Nominee may, by resolution of its board of directors, revoke the trust under which it holds the Principal Financial Products on thea date notified by it to ASX Settlement and the Principal Issuer specified in the resolution;~~

- (a) if the CDI ceases to be an Approved Financial Product or the CDI is in respect of a class of Principal Financial Products for which the approval under Rule 13.2 has been revoked; or
- (b) in the circumstances set out in the Nominee Terms in respect of the relevant Depository Nominee.

The Depository Nominee must notify the affected Holders of CDIs of the revocation in accordance with the Procedures.

From the date of revocation ~~specified in the resolution~~:

- (ia) the Depository Nominee holds the Principal Financial Products and any other relevant property on trust for distribution to each Holder of CDIs and otherwise on the same terms as far as practicable as it held the Principal Financial Products and other relevant property before such revocation of trust;

- (ii) the Depository Nominee may, ~~in its absolute discretion,~~ continue to hold on trust for the relevant Holder of CDIs the Principal Financial Products and any other relevant property for any period determined by the Depository Nominee instead of distributing that property to the Holder of CDIs and, in doing so, the Depository Nominee will not be liable for any loss, cost, damage or expense suffered by the Holder of CDIs (except where such loss, cost, damage or expense is directly caused by the Depository Nominee's actual fraud or dishonesty); and
- (iii) the Depository Nominee may appoint a custodian or agent (including a paying agent), which may be the Principal Issuer, for the purpose of holding Principal Financial Products and any other relevant property (including, without limitation, net proceeds referred to in Rule 13.5A.2(c)) or performing any of its duties relating to the distribution or holding of property or for any other purpose for which a trustee may appoint an agent. Where the Depository Nominee proposes to appoint a custodian or agent, the Principal Issuer may nominate a custodian or agent for consideration by the Depository Nominee. The Depository Nominee is not obliged to appoint a custodian or agent nominated by the Principal Issuer.

Introduced 17/03/08, Amended [insert date]

### **13.5A.2 Distribution of Principal Financial Products and power of sale**

If a Depository Nominee revokes the trust under which it holds a class of Principal Financial Products in accordance with Rule 13.5A.1:

- (a) the Depository Nominee may, ~~in its absolute discretion,~~ notify the affected Holders of CDIs in accordance with the Procedures of a procedure by which the Principal Financial Products and any other relevant property will be distributed to Holders;
- (b) subject to any law or rule of any financial market where the Principal Financial Products are listed or quoted, the Principal Issuer must use all reasonable endeavours to assist the Depository Nominee to distribute the Principal Financial Products and any other relevant property to Holders of CDIs in accordance with the procedure notified by the Depository Nominee; and
- (c) if the Depository Nominee, after taking any steps specified in the Procedures, has been unable to distribute the Principal Financial Products and any other relevant property to a Holder of CDIs, then the Depository Nominee:
  - (i) \_\_\_\_\_ may sell the Principal Financial Products and any other relevant property and, subject to any right of indemnity exercisable by the Depository Nominee, hold the net proceeds (taking into account all costs, expenses and fees (including currency conversion and brokerage fees)) on trust for distribution to the Holder of CDIs. The Holder of those CDIs has a vested and indefeasible interest in, and is absolutely entitled to, such net proceeds; and
  - (ii) \_\_\_\_\_ may, after any period specified by law for holding unclaimed moneys, remit those monies to a regulatory authority in accordance with relevant law.

Introduced 17/03/08, Amended [insert date]

### 13.5A.3 Exercise of power of sale

In exercising ~~the~~ power of sale in ~~this Section 13~~Rule 13.5A.2, the Depository Nominee may do any of the following:

- (a) sell, dispose of, transfer or otherwise deal with the Principal Financial Products and any other relevant property to any person including without limitation to an associate of any of the Principal Issuer, the Holder of CDIs or the Depository Nominee;
- (b) effect any sale by a single contract or in separate lots or parcels or in any other manner that the Depository Nominee may ~~in its absolute discretion~~ think fit, with power to the Depository Nominee to apportion the sale price and all costs, expenses, purchase money and fees (including currency conversion and brokerage fees) between the Principal Financial Products so dealt with, provided the apportionment is fair and equitable;
- (c) subject to any contrary rule of law or equity, allow a purchaser of the Principal Financial Products any time for payment of the whole or any part of the purchase money either with interest at any rate or without interest and either upon the security of the property sold or any part or upon any other security or without any security and the conditions of sale may include such special conditions as the Depository Nominee may ~~in its absolute discretion~~ think fit;  
or
- ~~(d) receive and retain the proceeds of any sale and issue receipts in respect of such proceeds; or~~
- ~~(e)~~ sign deeds of sale with respect to the sale of any Principal Financial Product and any other relevant property, and execute any other documents as may be required to transfer the rights of such Principal Financial Products or any other relevant property.

The Holder of a CDI has a vested and indefeasible interest in, and is absolutely entitled to, the net proceeds of any such sale, disposal, transfer of or other dealing in the Principal Financial Product in respect of the CDI.

Introduced 17/03/08, Amended [insert date]

### 13A.5A.4 Limitation of liability

If a Depository Nominee exercises the power of sale in accordance with this Section 13~~Rule 13.5A~~;

- ~~(a)~~ the exercise of that power does not involve on the part of the Depository Nominee:
  - ~~(a)~~ incurring any personal liability in connection with that exercise or its consequences unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default; and
  - ~~(b)~~ any breach of duty or trust whatsoever, unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default; and

- ~~(b) the Depository Nominee has no liability to any Holder for any delay in the sale of any property or any failure to obtain a particular price for any Principal Financial Products and any other relevant property or for obtaining different prices on different Principal Financial Products or other property sold pursuant to these Rules, or for any failure to obtain a particular rate for any currency conversion.~~

~~The person who acquires the Principal Financial Products need not confirm or verify whether Depository Nominee has the right to dispose of the Principal Financial Products or whether the Depository Nominee exercises that right properly.~~

Introduced 17/03/08, Amended [insert date]

### 13.5A.5 Appointment of custodian or agent

If the Depository Nominee appoints a custodian or agent in accordance with this Rule 13.5A, the following will apply to such appointment:

- (a) the Depository Nominee may ~~in its absolute discretion~~ appoint one or more persons whom the Depository Nominee determines to be properly qualified to act as the custodian or agent in respect of the Principal Financial Products and any other relevant property (including, without limitation, net proceeds referred to in Rule 13.5A.2(c)) (“**Relevant Property**”);
- (b) the Depository Nominee and the custodian or agent must execute a written agreement setting out the terms and conditions in relation to the appointment of the custodian or agent which provides among other things:
- ~~(i) that the appointment of the custodian or agent will be subject to such conditions as the Depository Nominee may from time to time determine, and the Depository Nominee may delegate to and confer upon the appointed custodian or agent any authorities, powers and discretions as the Depository Nominee sees fit;~~
- ~~(ii)(i)~~ a representation from the custodian or agent to the Depository Nominee that it has the skill, facilities, capacity and staff to carry out the duties of a custodian or agent;
- ~~(iii)(ii)~~ a representation that the custodian or agent agrees to follow any proper instructions or communications from the Depository Nominee or any relevant regulatory authority in relation to the transfer, disposal or remittance of the Relevant Property;
- ~~(iv)(iii)~~ for such other matters that by law are required to be specified in the written agreement between the Depository Nominee and the custodian or agent;
- (c) any consideration or fees applying to the provision of custodian or agency services under this Rule 13.5A ~~may~~**will** be deducted from the Relevant Property by the custodian or agent (or as otherwise determined in accordance with the relevant custody or agency agreement referred to in this Rule 13.5A); and
- (d) where the Depository Nominee appoints a custodian or agent in accordance with this clause 13.5A~~;~~**;**

- (i) ~~the exercise of that power does not involve on the part of the Depositary Nominee incurring any personal liability in connection with that exercise or its consequences unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default; and;~~
- (ii) ~~the Depositary Nominee will not be liable for any acts or omissions of any person who acts as its custodian or agent, nor will the exercise of its powers give rise to any breach of duty or trust whatsoever unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default,~~

in each case, subject to the Depositary Nominee having acted with due care in selecting that person.

Introduced 17/03/08, Amended [insert date]

## **13.6 CORPORATE ACTIONS IN RELATION TO PRINCIPAL FINANCIAL PRODUCTS OTHER THAN GOVERNMENT BONDS**

### **13.6.1 Application of Rules**

The purpose of the following Rules is to ensure that, to the extent permitted by the laws of the Principal Issuer's jurisdiction of incorporation, the benefit of all Corporate Actions of a Principal Issuer will enure to the benefit of the relevant Holders of CDIs as if they were Holders of the corresponding Principal Financial Products, where Principal Financial Products are held by a Depositary Nominee under these Rules.

In this Rule 13.6, where the Principal Issuer is not the Issuer of the Principal Financial Product, references to the Principal Issuer's rights and obligations will be interpreted, where the context requires, as being or including the rights of the Issuer or requiring that the Principal Issuer procure that the Issuer performs such obligation (respectively, and as the context requires).

This Rule 13.6 does not apply to Principal Financial Products that are Government Bonds.

Introduced 11/03/04 Origin SCH 3A.6.1 Amended 06/06/05, 17/03/08, 21/05/13, [insert date]

### **13.6.2 Distribution of Dividends to Holders of CDIs**

If CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Principal Issuer must distribute any dividend declared in respect of the corresponding Principal Financial Products to Holders of CDIs based on relevant Cum Entitlement Balances as at End of Day on the Record Date for the dividend in proportions as determined by the Transmutation Ratio.

Introduced 11/03/04 Origin SCH 3A.6.2 Amended 06/06/05

### **13.6.3 Direction and Acknowledgment by Depositary Nominee**

For the purposes of:

- (a) the Principal Issuer's constitution; and

- (b) all laws governing the entitlement to dividends of a Depository Nominee of the Principal Issuer,

the Depository Nominee is taken to have directed the Principal Issuer to distribute any dividend, that would otherwise be payable to it under the Principal Issuer's constitution, in accordance with these Rules.

Introduced 11/03/04 Origin SCH 3A.6.3

#### **13.6.4 Discharge of Principal Issuer's obligation to pay dividend to Depository Nominee**

A Depository Nominee for a Principal Issuer acknowledges that distribution of a dividend in accordance with these Rules discharges the Principal Issuer's obligation to pay the dividend to the Depository Nominee, and the Depository Nominee has no further duties or obligations to the Holders of CDIs or any other person in respect of such dividend.

Introduced 11/03/04 Origin SCH 3A.6.4, Amended [insert date]

#### **13.6.5 ~~Payments or distributions by Depository Interest Issuer~~**

This Rule 13.6, including rules ~~Rules~~ 13.6.2, 13.6.3 and 13.6.4, apply in respect of a CDI as if a reference to "dividend" is a reference to any distribution or payment, whether principal, premium or interest, as defined in the offering memorandum in respect of the Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.6.4A, Amended [insert date]

#### **13.6.6 Payment Obligations**

Where a DI Issuer makes a payment pursuant to Rule 13.6.2, that payment must be made to all Holders of DIs as soon as reasonably practicable.

Introduced 11/03/04 Origin SCH 3A.6.4B Amended 04/04/05

#### **13.6.7 Corporate Actions**

- (a) Subject to paragraph (d), if CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Principal Issuer must administer all Corporate Actions that result in:
- (i) the Issue of additional or replacement Financial Products in respect of the Principal Financial Products; or
  - (ii) the cancellation, buy back or other reduction in number by whatever means of the Principal Financial Products (whether in whole or part),

as if each Holder of CDIs with respect to the Depository Nominee's Holding is a Holder of a corresponding number of Principal Financial Products, so that the Holding of each Holder of CDIs is adjusted as a result of the Corporate Action (whether by issuing additional or replacement CDIs to Holders of CDIs, or by cancelling or otherwise reducing the number of CDIs in the existing Holdings of Holders of CDIs, as the case may be) based on relevant Cum Entitlement Balances as at End of Day on the Record Date for the Corporate Action on the same terms as would otherwise have applied if the Holders of CDIs were Holders of the Principal Financial Products.

- (b) If the benefits conferred in the Corporate Action are additional or replacement Financial Products as described in paragraph (a)(i), the Principal Issuer must ensure that those Financial Products are vested in the Depositary Nominee as Holder of the Principal Financial Products and the benefits are distributed to Holders of CDIs in the form of CDIs corresponding to those Principal Financial Products.
- (c) The Principal Issuer must ensure that the benefit of Corporate Actions is conferred on Holders of CDIs in proportions determined by the Transmutation Ratio.
- (d) If:
  - (i) the laws of the Principal Issuer's jurisdiction of incorporation do not permit the Principal Issuer to administer a Corporate Action as if each Holder of CDIs with respect to the Depositary Nominee's Holding is the Holder of a corresponding number of Principal Financial Products in the manner described in paragraph (a); and
  - (ii) the Principal Issuer has:
    - (A) so notified ASX Settlement in writing;
    - (B) given ASX Settlement:
      - a. written details of an alternative proposal ("Alternative Proposal") under which the number of Principal Financial Products held by the Depositary Nominee (when adjusted in accordance with the Alternative Proposal), combined with any other benefits (if any) to be conferred on the Depositary Nominee pursuant to the Alternative Proposal (such as cash), will result in each CDI Holder being placed as nearly as practicable in the same economic position as a result of the Corporate Action as if the Principal Issuer had administered the Corporate Action in the manner described in paragraph (a); or
      - b. if the laws of the Principal Issuer's jurisdiction of incorporation require the Corporate Action, so far as it concerns the Depositary Nominee and the Holders of CDIs with respect to the Depositary Nominee's Holding, to be administered having regard only to the Depositary Nominee's holding of Principal Financial Products at that time, to the exclusion of all other considerations, and such laws do not admit of any alternative proposal under which the interests of Holders of CDIs with respect to the Depositary Nominee's Holding may be taken into account (including, without limitation, by the payment of cash consideration in lieu of any additional CDIs to which the Holders of CDIs would have been entitled if the Principal Issuer had administered the Corporate Action in the manner described in paragraph (a)), a statement to that effect ("Statement");

- (C) provided an undertaking to ASX Settlement that it has disclosed the details of the Corporate Action (including details of any Alternative Proposal or Statement, as applicable) to Holders of CDIs in accordance with all applicable laws; and
  - (D) provided to ASX Settlement any additional information or documents which ASX Settlement requests for the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable) including, without limitation, a legal opinion satisfactory to ASX Settlement confirming the matters referred to in paragraph (d)(i) and such other matters related to the Corporate Action and the Alternative Proposal or Statement (as applicable) as ASX Settlement in its discretion may nominate; and
- (iii) ASX Settlement has confirmed in writing its acceptance of the Alternative Proposal or Statement (as applicable),

the Principal Issuer must ensure that:

- (iv) the Corporate Action is administered in accordance with the Alternative Proposal or Statement (as applicable); and
- (v) the Holding of each Holder of CDIs is adjusted as a result of the Corporate Action accordingly.

For the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable), and in confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement relies and is entitled to rely on all information, opinions and other documents provided to it by the Principal Issuer. By confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement does not and shall not be taken for any purpose to:

- (vi) endorse, promote or otherwise support the Alternative Proposal or Statement;
- (vii) express any view about the merits or the correctness of the legal and factual basis of the Alternative Proposal or Statement or any other matter connected with them; or
- (viii) accept any liability in connection with the Corporate Action, Alternative Proposal or Statement.

For the purposes of this Rule 13.6.7, "Corporate Action" includes (but is not limited to) bonus issues, rights issues, mergers and reconstructions (including any action taken by a Principal Issuer to reduce (or that will have the effect of reducing) the number of Principal Financial Products held by a Depositary Nominee).

Introduced 11/03/04 Origin SCH 3A.6.5 Amended 06/06/05, 17/03/08, 04/03/13

### **13.6.8 Dividend Reinvestment and Bonus Share Plans**

If CDIs in respect of a class of Principal Financial Products are approved under Rule

13.2, the Principal Issuer must, in relation to any dividend investment scheme or bonus share plan in respect of those Principal Financial Products:

- (a) make available to Holders of CDIs, based on relevant Cum Entitlement Balances as at End of Day on the Record Date for determining entitlements, all benefits and entitlements arising under the dividend reinvestment scheme or bonus share plan, as the case requires;
- (b) distribute all benefits and entitlements arising under the dividend reinvestment scheme or bonus share plan, as the case requires, to Holders of CDIs in proportions determined by the Transmutation Ratio;
- (c) ensure that any right under such a plan to elect to receive financial products rather than cash is exercised by Holders of CDIs rather than the Depository Nominee; and
- (d) if a Holder of CDIs elects to receive financial products, issue Principal Financial Products to the Depository Nominee and distribute corresponding CDIs to the Holder of CDIs.

Introduced 11/03/04 Origin SCH 3A.6.6 Amended 06/06/05

### 13.6.9 Exercise of Holder rights

If CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Depository Nominee must exercise any rights vested in it as the Holder of the Principal Financial Products under any law (including any right to institute legal proceedings as a holder of Financial Products), in accordance with:

~~(a) any direction given by a Holder of CDIs; or~~

~~(b) any direction of Holders of CDIs given by ordinary resolution at a meeting of Holders of CDIs.~~

Introduced 11/03/04 Origin SCH 3A.6.7 Amended 06/06/05, [insert date]

### 13.6.10 Fractional Entitlements

- (a) Subject to paragraph (b), if a Corporate Action would give Holders of CDIs a fractional entitlement to additional or replacement Principal Financial Products (if they held Principal Financial Products directly), the Principal Issuer must ensure that:
  - (i) the number of additional or replacement Principal Financial Products issued to the Depository Nominee is calculated as if each Holder of CDIs with respect to the Depository Nominee's Holding is a Holder of a corresponding number of Principal Financial Products; and
  - (ii) Holders of CDIs receive additional or replacement CDIs reflecting the entitlements so calculated.
- (b) If:
  - (i) the laws of the Principal Issuer's jurisdiction of incorporation do not permit the Principal Issuer to calculate the number of additional or replacement Principal Financial Products issued to the Depository

Nominee in the manner described in paragraph (a)(i) and to ensure that Holders of CDIs receive additional or replacement CDIs reflecting the entitlements so calculated; and

- (ii) the Principal Issuer has:
  - (A) so notified ASX Settlement in writing;
  - (B) given ASX Settlement:
    - a. written details of an alternative proposal (“Alternative Proposal”) under which the number of additional or replacement Principal Financial Products issued to the Depository Nominee, combined with any other benefits (if any) to be conferred on the Depository Nominee pursuant to the Alternative Proposal (such as cash), will result in each CDI Holder receiving as nearly as practicable the same economic benefit as a result of the Corporate Action as if the number of additional or replacement Principal Financial Products issued to the Depository Nominee had been calculated in the manner described in paragraph (a)(i) and the Principal Issuer had ensured that Holders of CDIs received additional or replacement CDIs reflecting the entitlements so calculated; or
    - b. if the laws of the Principal Issuer’s jurisdiction of incorporation require the number of additional or replacement Principal Financial Products issued to the Depository Nominee to be calculated having regard only to the Depository Nominee’s holding of Principal Financial Products at that time, to the exclusion of all other considerations, and such laws do not admit of any alternative proposal under which the interests of Holders of CDIs with respect to the Depository Nominee’s Holding may be taken into account (including, without limitation, by the payment of cash consideration in lieu of such additional or replacement CDIs as the Holders of CDIs would have received if the number of additional or replacement Principal Financial Products issued to the Depository Nominee had been calculated in the manner described in paragraph (a)(i)), a statement to that effect (“Statement”);
  - (C) provided an undertaking to ASX Settlement that it has disclosed the details of the Corporate Action (including details of any Alternative Proposal or Statement, as applicable) to Holders of CDIs in accordance with all applicable laws; and
  - (D) provided to ASX Settlement any additional information or documents which ASX Settlement requests for the purpose

of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable) including, without limitation, a legal opinion satisfactory to ASX Settlement confirming the matters referred to in paragraph (b)(i) and such other matters related to the Corporate Action and the Alternative Proposal or Statement (as applicable) as ASX Settlement in its discretion may nominate; and

- (iii) ASX Settlement has confirmed in writing its acceptance of the Alternative Proposal or Statement (as applicable),

the Principal Issuer must ensure that:

- (iv) the number of additional or replacement Principal Financial Products issued to the Depository Nominee is calculated in accordance with the Alternative Proposal or Statement (as applicable); and
- (v) Holders of CDIs receive additional or replacement CDIs reflecting the entitlements so calculated.

For the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable), and in confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement relies and is entitled to rely on all information, opinions and other documents provided to it by the Principal Issuer. By confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement does not and shall not be taken for any purpose to:

- (vi) endorse, promote or otherwise support the Alternative Proposal or Statement;
- (vii) express any view about the merits or the correctness of the legal and factual basis of the Alternative Proposal or Statement or any other matter connected with them; or
- (viii) accept any liability in connection with the Corporate Action, Alternative Proposal or Statement.

For the purposes of this Rule 13.6.10, "Corporate Action" includes (but is not limited to) bonus issues, rights issues, mergers and reconstructions (including any action taken by a Principal Issuer to reduce (or that will have the effect of reducing) the number of Principal Financial Products held by a Depository Nominee).

Introduced 11/03/04 Origin SCH 3A.6.8 Amended 06/06/05, 17/03/08

### **13.6.10A Disposal of surplus Principal Financial Products**

If:

- (a) the Depository Nominee receives Principal Financial Products in connection with a Corporate Action; and
- (b) following receipt of the Principal Financial Products, the Depository Nominee's Holding of Principal Financial Products exceeds the aggregate of each CDI Holder's entitlement to a whole number of Principal Financial Products,

the Depositary Nominee must sell such surplus Principal Financial Products and distribute the proceeds of sale (less transaction costs) to Holders of CDIs in proportion to their respective Holdings.

Introduced 17/03/08

### **13.6.11 General Direction and Acknowledgment by Depositary Nominee**

A Depositary Nominee for a Principal Issuer:

- (a) is taken to have directed the Principal Issuer to administer all Corporate Actions of the Principal Issuer in the manner provided in these Rules; and
- (b) acknowledges that compliance with these Rules discharges the Principal Issuer's obligation to make the benefit of a Corporate Action available to the Depositary Nominee.

Introduced 11/03/04 Origin SCH 3A.6.9, 3A.6.10

### **13.6.12 Transmutations of Financial Products and associated Entitlements**

Where, during an ex-period for a Corporate Action, Principal Financial Products under Rules 13.1 to 13.13 are Transmuted in order to give effect to a transfer of those Principal Financial Products, the transmutation of those Principal Financial Products must be effected together with any associated Entitlement.

Introduced 11/03/04 Origin SCH 3A.6.11 Amended 06/06/05

### **13.6.13 Divestment of small Holdings**

If CDIs in respect of a class of Principal Financial Products are approved and:

- (a) in accordance with the Listing Rules, a Holder of less than a specified number of Principal Financial Products can be subject to divestment or sale of those Principal Financial Products by the Principal Issuer; and
- (b) a Holder of CDIs would be subject to divestment or sale if it held the corresponding number of Principal Financial Products directly,

the Principal Issuer may give a Notice of Divestment in accordance with Rule 5.12.2 to the Holder of CDIs. The Principal Issuer must also give a Holder of CDIs the benefit of any notice and consent procedure that may be contained in the constitution of the Principal Issuer, the Listing Rules and the rules of any financial market on which the Principal Financial Products are listed or quoted to which the Holder of CDIs would be entitled if it held the Principal Financial Products directly.

Introduced 17/03/08

### **13.6.14 Depositary Nominee may consent to sale or divestment**

If the Depositary Nominee is reasonably satisfied that the Principal Issuer has complied with its obligations under Rule 13.6.13, the Depositary Nominee is authorised to consent to the sale or divestment of the number of Principal Financial Products which correspond to the Holder's CDIs.

Introduced 17/03/08

### 13.6.15 Principal Issuer must distribute proceeds

The Principal Issuer must distribute to the Holder of CDIs any proceeds of a sale made pursuant to a notice given under Rule 13.6.13 (net of transaction costs, expenses and fees (including currency conversion and brokerage fees)). If the Principal Issuer is required under the laws of its jurisdiction of incorporation to distribute the net proceeds to the Depository Nominee in its capacity as the Holder of the Principal Financial Products, the Depository Nominee shall be taken to have directed the Principal Issuer to distribute the net proceeds to the Holder of CDIs. Upon distribution of the net proceeds to the Holder of CDIs, the Principal Issuer must cancel the Holder's CDIs corresponding to the Principal Financial Products which have been sold.

Introduced 17/03/08, Amended [insert date]

### 13.6.16 Indemnity by Principal Issuer

By giving a Notice of Divestment, a Principal Issuer indemnifies the Depository Nominee and ASX Settlement against any loss, cost, damage, expense or liability which they may suffer or incur as a result of any sale or divestment of Principal Financial Products and the cancellation of CDIs under this Rule.

Introduced 17/03/08

### 13.6.17 Liability of Depository Nominees

A Depository Nominee has no liability to:

- (a) a Principal Issuer;
- (b) Holders of CDIs; or
- (c) any person claiming an interest in a Principal Financial Product or CDI,  
unless it acts in bad faith, negligently or in breach of these Rules.

For the avoidance of doubt and without limiting the foregoing:

- (d) a Depository Nominee has no liability to pass to any person a better interest in any Financial Product than it has.
- (e) the Principal Issuer is responsible for the payment of all Entitlements in respect of a Principal Financial Product or CDI.

This Rule 13.6.17 does not apply in respect of Government Bond Issuers, Government Bonds, or Government Bond Depository Interests or Holders of them.

Introduced [insert date]

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## 13.7 TAKEOVERS

For the avoidance of doubt, this Rule 13.7 does not apply in relation to Principal Financial Products that are Government Bonds.

Introduced 21/05/13

### **13.7.1 Depository Nominee to accept only if authorised by Holders of CDIs**

If a takeover offer in respect of Principal Financial Products is received by a Depository Nominee, the Depository Nominee must not accept the offer except to the extent that acceptance is authorised by Holders of CDIs with respect to the Principal Financial Products under these Rules.

Introduced 11/03/04 Origin SCH 3A.7.1 Amended 06/06/05

### **13.7.2 Acceptance with respect to Holders of CDIs on CHESSE Subregister**

If:

- (a) Principal Financial Products are held by a Depository Nominee; and
- (b) the corresponding CDIs are held on a CHESSE Subregister,

then the provisions of the Rules governing the processing of takeover acceptances of Financial Products held on a CHESSE Subregister apply as if the CDIs were Financial Products of a listed public company and the Depository Nominee must accept a takeover offer with respect to Principal Financial Products which it holds if and to the extent to which acceptances are received and processed pursuant to the Rules.

Introduced 11/03/04 Origin SCH 3A.7.2 Amended 06/06/05

### **13.7.3 Acceptance with respect to Holders of CDIs on Issuer-Sponsored Subregister**

If:

- (a) Principal Financial Products are held by a Depository Nominee; and
- (b) corresponding CDIs are held on the Issuer Sponsored Subregister,

then the Depository Nominee must:

- (c) as soon as possible after the date of receipt of the takeover offer from the offeror, send to each Holder of CDIs registered on the CDI Register at the date of the offer, copies of the offer documentation, together with any other documents sent to target holders of the Principal Financial Products; and
- (d) ensure that the offer documentation sent to Holders of CDIs includes a Notice in a form acceptable to ASX Settlement in accordance with the Procedures.

Introduced 11/03/04 Origin SCH 3A.7.3 Amended 06/06/05, 04/03/13

### **13.7.4 Processing of acceptances from Holders of CDIs**

Where the provisions of Rule 13.7.3 apply, the Depository Nominee must ensure that:

- (a) the offeror receives and processes acceptances from Holders of CDIs or appoints a receiving agent in Australia to receive and process acceptances with respect to Holders of CDIs on the Issuer Sponsored Subregister; and
- (b) either the offeror or the offeror's receiving agent provides the Depository Nominee with a clear statement of the number of Principal Financial Products held by the Depository Nominee with respect to which acceptances of Holders of CDIs have been received, in sufficient time to enable the Depository

Nominee to lodge a valid acceptance of the offer with the offeror as holder of the Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.7.4

### **13.7.5 Liability of Depositary Nominee**

The Depositary Nominee has no liability to:

- (a) the Principal Issuer;
- (b) Holders of Principal Financial Products;
- (c) Holders of CDIs;
- (d) any person claiming an interest in Principal Financial Products or CDIs; or
- (e) the takeover offeror,

with respect to lodging or not lodging takeover acceptances for the whole or any part of its Holding of Principal Financial Products unless it:

- (f) acts contrary to a statement of a receiving agent given under Rule 13.7.4(b) or contrary to the information supplied to it by ASX Settlement regarding takeover acceptances with respect to Holdings on the CHESSE Subregister for the CDIs;
- (g) acts ~~negligently or~~ in breach of these Rules; or
- (h) negligently fails to lodge the acceptance or acceptances before the close of the offer period.

Introduced 11/03/04 Origin SCH 3A.7.5 Amended 06/06/05 [\[insert date\]](#)

## **13.8 VOTING ARRANGEMENTS**

### **13.8.1 Interpretation**

For the purposes of Rule 13.8, “constitution of a Principal Issuer” means:

- (a) in respect of a share, constitution as defined in the Corporations Act; or
- (b) in respect of a Financial Product other than a share, the document or legislation which creates the right for a holder of Financial Products to attend and vote at meetings of holders of Financial Products of that class and to appoint proxies in respect of that voting.

For the avoidance of doubt, this rule 13.8 does not apply in relation to Principal Financial Products that are Government Bonds.

Introduced 11/03/04 Origin SCH 3A.1.3 Amended 21/05/13

### **13.8.2 Principal Issuer to notify Holders of CDIs**

If a meeting is convened of Holders of a class of Principal Financial Products vested in a Depositary Nominee for a Principal Issuer, the Principal Issuer must give a Notice of

the meeting to each Holder of CDIs at the same time as Notice of the meeting is sent to Holders of the Principal Financial Products.

For the purposes of this Rule 13.8.2, a Principal Issuer may give a Notice of the meeting to a Holder of CDIs in any manner provided for in the Corporations Act.

*Note: this Rule 13.8.2 is intended to cover the means by which a notice of meeting may be given under section 249J of the Corporations Act.*

Introduced 11/03/04 Origin SCH 3A.8.1 Amended 18/12/06

### **13.8.3 Holders of CDIs may give Directions to Depositary Nominee**

Subject to Rule 13.8.8, the Depositary Nominee must appoint two proxies even if under the constitution of the Principal Issuer, a Depositary Nominee has a right to:

- (a) appoint more than one proxy for the purpose of voting at a meeting of the Principal Issuer; and
- (b) cast different proxy votes for different parts of the Holding.

Introduced 11/03/04 Origin SCH 3A.8.2

### **13.8.4 Proxies to indicate results of resolution**

One of the two proxies so appointed in accordance with Rule 13.8.3 must indicate the number of Principal Financial Products in favour of the resolution described in the proxy, and the second proxy must indicate the number of Principal Financial Products against the resolution described in the proxy.

Introduced 11/03/04 Origin SCH 3A.8.3 Amended 06/06/05

### **13.8.5 Determining the number of Financial Products for each proxy**

The manner in which the number of Principal Financial Products is determined for each proxy is by:

- (a) taking the number of CDIs in favour of the resolution;
- (b) taking the number of CDIs against the resolution;
- (c) applying the transmutation ratio to those CDIs; and
- (d) entering the resultant number of Principal Financial Products on the appropriate proxy.

Introduced 11/03/04 Origin SCH 3A.8.4 Amended 06/06/05

### **13.8.6 Depositary Nominee appointing a single proxy**

If under the constitution of the Principal Issuer, a Depositary Nominee can only appoint a single proxy, the Depositary Nominee must:

- (a) take the number of CDIs in favour of the resolution;
- (b) take the number of CDIs against the resolution;

- (c) determine the net voting position either in favour of or against the resolution;
- (d) apply the transmutation ratio to those CDIs; and
- (e) accordingly enter the resultant number of Principal Financial Products on the proxy.

Introduced 11/03/04 Origin SCH 3A.8.5 Amended 06/060/05

### **13.8.7 Voting instructions by Depositary Nominee**

Where the appointed proxy or proxies are required to vote on multiple resolutions, the Depositary Nominee must instruct the proxy or proxies to vote in such manner as will in the reasonable opinion of the Depositary Nominee best represent the wishes of the majority of Holders of CDIs.

Introduced 11/03/04 Origin SCH 3A.8.5A

### **13.8.8 Depositary Nominee to appoint Holders of CDIs as proxy**

The Depositary Nominee must appoint a Holder of CDIs or a person nominated by a Holder of CDIs as its proxy for the purpose of attending and voting at a meeting of the Principal Issuer where:

- (a) the constitution of the Principal Issuer allows the Depositary Nominee to appoint Holders of CDIs or a person nominated by a Holder of CDIs as its proxy; and
- (b) the Holder of CDIs has informed the Principal Issuer that the Holder wishes to nominate another person to be appointed as the Depositary Nominee's proxy.

Introduced 11/03/04 Origin SCH 3A.8.1

### **13.8.9 Principal Issuer must notify Holders of CDIs of their Rights**

The Principal Issuer must:

- (a) include with the Notice of meeting given under Rule 13.8.2 a Notice in a form acceptable to ASX Settlement in accordance with the Procedures; and
- (b) make appropriate arrangements to:
  - (i) collect and process any directions by Holders of CDIs;
  - (ii) provide the Depositary Nominee with a report in writing that clearly shows how the Depositary Nominee must exercise its right to vote by proxy at the meeting, in sufficient time to enable the Depositary Nominee to lodge a proxy for the meeting; and
  - (iii) where a Holder of CDIs, or a person nominated by a Holder of CDIs, is to be appointed the Depositary Nominee's proxy in accordance with Rule 13.8.8, collect and process all relevant proxy forms in sufficient time to enable the Depositary Nominee to lodge a proxy or proxies for the meeting.

Introduced 11/03/04 Origin SCH 3A.8.6 Amended 18/12/06

### **13.8.10 Depository Nominee to call for a poll**

To the extent that it is able to do so, the Depository Nominee must make or join in any demand for a poll in respect of any matter at a meeting of the Principal Issuer in accordance with any report in writing supplied by the Principal Issuer under Rule 13.8.9(b)(ii).

Introduced 11/03/04 Origin SCH 3A.8.7

### **13.8.11 Meetings of Holders of CDIs**

If it is necessary or appropriate for a meeting of Holders of CDIs to be convened for any purpose, including a purpose specified in these Rules:

- (a) the meeting may be convened by the directors or other governing body, as the case requires, of the Principal Issuer to which the CDIs relate, or in any other manner in which a meeting of holders of Financial Products of the Principal Issuer may be convened under the law of the place of formation of the Principal Issuer;
- (b) the rights of Holders of CDIs to appoint a proxy, to vote on a show of hands, to call for a poll and vote on a poll must be determined as if the meeting were a meeting of holders of Financial Products of the Principal Issuer;
- (c) the requirements for Notice of the meeting and the rules and procedures for a meeting of Holders of CDIs must be the requirements, rules and procedures that would apply to a meeting of holders of Financial Products of the Principal Issuer.

Introduced 11/03/04 Origin SCH 3A.8.8 Amended 21/05/13

### **13.8.12 Liability of Depository Nominees**

The Depository Nominee has no liability to:

- (a) the Principal Issuer;
- (b) Holders of Principal Financial Products;
- (c) Holders of CDIs; or
- (d) any person claiming an interest in Principal Financial Products or CDIs,

with respect to any conduct or omission of the Depository Nominee at or connected with a meeting of Holders of Financial Products of a Principal Issuer, unless the Depository Nominee:

- (e) acts contrary to a report of the Principal Issuer given under Rule 13.8.9(b)(ii);
- (f) acts ~~negligently or~~ in breach of these Rules; or
- (g) negligently fails to vote or lodge forms of proxy before the close of the period within which proxies for the meeting may be lodged.

Introduced 11/03/04 Origin SCH 3A.8.9 Amended [insert date]

## **13.8A CHANGE OF DEPOSITARY NOMINEE**

### **13.8A.1 Removal of Depositary Nominee and appointment of a successor**

The Principal Issuer in relation to CDIs in respect of a class of Principal Financial Products may remove the Depositary Nominee for those Principal Financial Products (“Retiring Depositary Nominee”) and appoint a new Depositary Nominee for those Principal Financial Products for the purposes of complying with these Rules (“Successor Depositary Nominee”) by giving at least 90 days’ Notice to the Retiring Depositary Nominee (or such shorter period of notice as may be agreed in writing between the Principal Issuer and the Retiring Depositary Nominee).

Prior to the effective date of the appointment, the Principal Issuer must give ASX Settlement written confirmation from the Successor Depositary Nominee of its agreement to be appointed.

### **13.8A.2 When removal and appointment takes effect**

The removal of the Retiring Depositary Nominee takes effect when the Successor Depositary Nominee is appointed by the Principal Issuer.

### **13.8A.3 Retiring Depositary Nominee to deliver documents**

The Retiring Depositary Nominee must deliver to the Successor Depositary Nominee:

- (a) all original documents in its possession relating to the relevant Principal Financial Products; and
- (b) any transfers, requests, notices of assignment or other documents to record the transfer of such Principal Financial Products to the Successor Depositary Nominee, which the Successor Depositary Nominee reasonably requests.

The Principal Issuer must use all reasonable endeavours to assist the Retiring Depositary Nominee to comply with this Rule 13.8A.3.

### **13.8A.4 Further steps**

Without limiting Rule 13.8A.3, the Retiring Depositary Nominee must do anything the Successor Depositary Nominee reasonably asks (such as obtaining consents, and signing, producing and delivering documents including a retirement and appointment document) to give effect to the removal and the appointment of the Successor Depositary Nominee.

### **13.8A.5 Discharge of further obligations**

When a Successor Depositary Nominee is appointed in respect of Principal Financial Products and there is no Principal Financial Products of that class (or other relevant property in respect of Principal Financial Products of that class) held by the Retiring Depositary Nominee as Depositary Nominee, the Retiring Depositary Nominee is discharged from any further obligation under these Rules in respect of the Principal Financial Products, any CDIs in respect of them and Holders of such CDIs. However, this discharge does not affect any accrued rights or obligations including, for the avoidance of doubt, its rights of indemnity that continue to accrue up to the date its removal takes effect.

## 13.9 SPECIFIC MODIFICATIONS TO RULES

### 13.9.1 Modifications

The following modifications are made to the Rules in respect of the operation of Section 13:

- (a) Rule 8.1 does not apply.
- (b) Rule 8.2.1(a) is varied by the insertion of the words " or CDIs that are to be approved under Rules 13.1 to 13.13;" after Rule" 8.1".
- (c) Rules 8.6.4 and 8.6.5 should be read as if references to the "Commission" were references to "ASX Settlement" and references to the "Corporations Act" were references to "these Rules".
- (d) The provisions of Rule 8.12 are modified by the provisions of Rules 13.9.2 to 13.9.6 below.
- (e) Rule 5.2.1 is amended by insertion of the words "or CDIs that are to be approved under Rules 13.1 to 13.13" after "8.1" in Rule 5.2.1.
- (f) Rules 5.2.2 and 5.4.1 do not apply to ~~a class of~~ CDIs in respect of a class of Principal Financial Products that is Approved under Rules 13.1 to 13.13.
- (g) Rule 5.4.2 is to be read as if the following provision is added to the end of Rule 5.4.2, "A Principal Issuer may not cease to operate its Issuer Sponsored Subregister unless ASX Settlement agrees in writing."
- (h) Rule 5.9 only applies where a Transfer is initiated by a Participant which has the effect of a Conversion.
- (i) Rules 5.13.1 and 5.13.3 are modified so that the references to "total issued capital" must be read as references to " total number of CDIs".
- (j) The provisions of Section 14 are taken to apply to CDIs as if the CDIs were Financial Products in an Australian listed public company and the takeover bid with respect to the Principal Financial Products was a takeover under the Corporations Act. For the avoidance of doubt, this subparagraph (j) does not apply to Principal Financial Products that are Government Bonds.
- (k) The provisions of Section 12 do not apply to a Government Bond Issuer that is the Australian Government.

Introduced 11/03/04 Origin SCH 3A.9.1 to 3A.9.5, 3A.9.8 to 3A.9.12, 3A.9.12A to 3A.9.19  
Amended 04/04/05, 06/06/05, 21/05/13, [insert date](#)

### 13.9.2 CDI to Principal Financial Product Transmutation

A CDI to Principal Financial Product Transmutation may be initiated by a Participant only in accordance with the Procedures.

Introduced 11/03/04 Origin SCH 3A.9.6.1 Amended 06/06/05, 21/05/13

### **13.9.3 Actions of ASX Settlement**

If an Originating Message Transmitted to ASX Settlement complies with Rule 13.9.2 and there are sufficient available CDIs in the Source Holding, ASX Settlement must:

- (a) deduct the number of CDIs specified in the Originating Message from the Source Holding; and
- (b) Transmit a Message to the Principal Issuer to transfer Principal Financial Products in accordance with the Originating Message.

Introduced 11/03/04 Origin SCH 3A.9.6.2 Amended 04/04/05, 06/06/05

### **13.9.4 Principal Issuer to generate Trustee Transfer Forms**

If a Principal Issuer receives a Valid Message under Rule 13.9.3(b), the Principal Issuer must, within the Scheduled Time:

- (a) generate a Trustee Transfer Form in accordance with the Procedures; and
- (b) register that Transfer in the Principal Register.

Introduced 11/03/04 Origin SCH 3A.9.6.3 Amended 04/04/05, 06/06/05

### **13.9.5 Time at which Transfer takes effect**

A Transfer initiated under Rule 13.9.4(a) is deemed to take effect at the time ASX Settlement deducts the number of CDIs specified in the Originating Message from the Source Holding.

Introduced 11/03/04 Origin SCH 3A.9.6.4 Amended 06/06/05

### **13.9.6 Authority of Holder of CDI required**

A Participant must not transmit a Valid Originating Message which has the effect of Transmuting CDIs to Principal Financial Products without the prior authority of the Holder of CDIs.

Introduced 11/03/04 Origin SCH 3A.9.6.5

### **13.9.7 Principal Financial Product to CDI Transmutation**

A Principal Financial Product to CDI Transmutation may be initiated by a Participant that:

- (a) lodges a properly completed document of Transfer and Certificate or Marked Transfer with the Principal Issuer within the Scheduled Time; and
- (b) Transmits a Valid Originating Message to ASX Settlement in accordance with the Procedures.

This rule 13.9.7 applies to Principal Financial Products that are Government Bonds only in the circumstances specified in the Procedures.

Introduced 11/03/04 Origin SCH 3A.9.7.1 Amended 06/06/05, 21/05/13

### **13.9.8 ASX Settlement to request Principal Issuer to authorise the Transmutation**

If an Originating Message Transmitted to ASX Settlement complies with Rule 13.9.7(b), ASX Settlement will:

- (a) Transmit to the Principal Issuer a Message requesting the Principal Issuer to authorise the Transmutation of Principal Financial Products to CDIs in accordance with that Originating Message; and
- (b) specify the Registration Details in the Message to the Issuer to enable the Issuer to validate the Registration Details, where applicable.

Introduced 11/03/04 Origin SCH 3A.9.7.2 Amended 04/04/05, 06/06/05

### **13.9.9 Principal Issuer to process the Transfer**

If a Principal Issuer receives:

- (a) a properly completed document of Transfer and Certificate or Marked Transfer; and
- (b) a Valid Message under Rule 13.9.8 from ASX Settlement pursuant to an Originating Message,

the Principal Issuer must, within the Scheduled Time:

- (c) enter the Transfer in the Principal Register;
- (d) Transmit a Message to ASX Settlement to Transfer the Financial Products in accordance with the Originating Message; and
- (e) in the case of a Message requesting the Principal Issuer to authorise a Transfer where the Transfer has the effect of a Conversion, ensure the Registration Details specified in the Message for the Target Holding match the Registration Details maintained by the Principal Issuer for the Source Holding.

Introduced 11/03/04 Origin SCH 3A.9.7.3 Amended 04/04/05

### **13.9.10 ASX Settlement to enter Financial Products into Target Holding**

If ASX Settlement receives a Valid Message under Rule 13.9.9(d), ASX Settlement must enter Financial Products into the Target Holding in accordance with the Originating Message.

Introduced 11/03/04 Origin SCH 3A.9.7.4

### **13.9.11 Conditions for Issuer's authorisation of a Transfer not met**

If the conditions for authorisation by the Issuer of a Transfer as stipulated in Rule 13.9.9 are not met, the Issuer must, within the Scheduled Time:

- (a) reject the Message; and/or

- (b) return the properly completed document of Transfer and Certificate or Marked Transfer to the Participant that lodged it without entering the Transfer in the Principal Register,

whichever is relevant.

Introduced 11/03/04 Origin SCH 3A.9.7.5 Amended 09/05/05

### **13.9.12 Time at which Transfer takes effect**

A Transfer initiated under Rule 13.9.7 takes effect when both the actions described in Rule 13.9.9(c) and (d) are completed.

Introduced 11/03/04 Origin SCH 3A.9.7.6

### **13.9.13 ASX Settlement may purge unactioned Messages**

If a Principal Issuer receives a Message from ASX Settlement under Rule 13.9.8 and does not respond to ASX Settlement under either Rule 13.9.9 or Rule 13.9.11 within the relevant Scheduled Time for response, ASX Settlement may purge the unactioned Message from the Settlement Facility.

Introduced 09/05/05

## **13.10 SHUNTING BETWEEN REGISTERS**

### **13.10.1 Shunt from DI rRegister to Principal Register**

Where a Holder gives Notice requesting that the Principal Issuer shunt all or part of a Holding of DIs into Principal Financial Products, the Principal Issuer must reduce that Holding by the number specified in the Notice and take such steps as are necessary to shunt the same number of Principal Financial Products from the relevant Segregated Account to the Approved Clearing House account nominated in the Notice, within 2 Business Days of receipt of that Notice.

Introduced 11/03/04 Origin SCH 3A.10.1 Amended 07/03/16, [\[insert date\]](#)

### **13.10.2 Shunt from Principal Register to DI rRegister**

Where a Holder gives Notice requesting that the Principal Issuer shunt all or part of a Holding of Principal Financial Products into DIs, the Principal Issuer must take all necessary steps to shunt those Principal Financial Products to the Segregated Account and enter the same number of DIs into a Holding in accordance with the instructions given in the Notice, within 2 Business Days of receipt of that Notice.

This Rule 13.10 does not apply to Principal Financial Products that are Government Bonds or to Government Bond Depository Interests.

Introduced 11/03/04 Origin SCH 3A.10.2 Amended 21/05/13, 07/03/16, [\[insert date\]](#)

## 13.11 TAX LAWS

### 13.11.1 Principal Issuer to ~~company comply~~ with Tax laws

The Principal Issuer will use its best endeavours to:

- (a) comply with all applicable Tax laws as agent and attorney of the Depository Nominee;
- (b) ensure that the Depository Nominee complies with all applicable Tax laws, including to uphold the absolute entitlement of a Holder of CDIs to the Principal Financial Products; and
- (c) not do any act or thing which creates a Tax liability, or not omit to do any act or thing, the omission of which creates a Tax liability, which must be discharged by the Depository Nominee, unless provision has been made for the discharge of the liability by some person other than the Depository Nominee.

The obligations of the Principal Issuer and the Depository Nominee are subject to all relevant Tax laws.

Introduced 11/03/04 Origin SCH 3A.11.1, 3A.11.2 Amended [insert date]

....

## 13.13 GENERAL INDEMNITY AND EXCLUSION OF LIABILITY

### 13.13.1 Principal Issuer to indemnify the Depository Nominee

The Principal Issuer indemnifies the Depository Nominee against all expenses, losses, damages and costs that the Depository Nominee may sustain or incur in connection with:

- (a) CDIs;
- (b) its capacity as holder of Principal Financial Products;
- (c) any act done, or required to be done, by the Principal Issuer (whether or not on behalf of the Depository Nominee) under Rules 13.1 to 13.13 of the Rules; and
- (d) any act otherwise done or required to be done by the Depository Nominee under Rules 13.1 to 13.13 of the Rules.

This Rule 13.13.1 does not apply to a Government Bond Issuer.

Introduced 11/03/04 Origin SCH 3A.13.1 Amended 21/05/13

### 13.13.2 Exclusion of liability

The Depository Nominee:

- (a) shall have no duties or obligations except those expressly set out in the Nominee Terms and these Rules;

(b) may apply to a court for directions as to any matter arising in connection with the exercise of its powers and functions under these Rules, and shall not be responsible for any delay arising as a result;

(c) will only be considered to have knowledge, awareness or notice of a thing, or grounds to believe any thing, by virtue of the officers of the Depository Nominee having day to day responsibility for the holding the Principal Financial Products in accordance with these Rules and the Nominee Terms having actual knowledge, actual awareness or actual notice of that thing, or grounds to believe that thing (and similar references will be interpreted in this way).

To the extent permitted by law, and subject to the provisions of these Rules and the Nominee Terms, neither the Depository Nominee nor its successors, substitutes or assigns will be liable in respect of any conduct, delay, negligence or breach of duty in the exercise or non-exercise of any power, nor for any loss (including consequential loss) which results, unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default by the Depository Nominee.

Introduced [insert date]

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**End of Document**

# ASX SETTLEMENT OPERATING RULES

## SECTION 2 DEFINITIONS AND INTERPRETATION

### SECTION 2 DEFINITIONS AND INTERPRETATION

This Section contains the definitions and sets out a number of general principles by which these Rules are to be interpreted.

...

#### 2.13 DEFINITIONS

##### 2.13.1 Definitions used in the Rules

In these Rules, unless the context otherwise requires:

...

“**CDI Register**” means a register of CDI Holdings maintained by a Principal Issuer under the Rules, consisting of:

- (a) an Issuer-Sponsored Subregister of Holders of CDIs and a CHESSE Subregister of Holders of CDIs; or
- (b) with the consent of ASX Settlement, a CHESSE Subregister of Holders of CDIs.

*Note:* ASX Settlement may consent to a CDI Register consisting of a CHESSE Subregister only, where the relevant offer is limited to institutional Holders.

Amended [insert date]

...

“**Depository Nominee**” means the person appointed as such in respect of a class of Principal Financial Products in accordance with~~under~~ these Rules, being either:

- (a) CHESSE Depository Nominees Pty Ltd (as long as it remains admitted to participate in CHESSE under Rule 4.3.1); or
- (b) a person admitted as a General Settlement Participant under Rule 4.3.1, whose function is to hold Title or Other Interest to Principal Financial Products or Participating International Financial Products.

Amended [insert date]

...

“Nominee Terms” means, in respect of a Depository Nominee, the Nominee Terms for that Depository Nominee specified in the Procedures. The Nominee Terms may relate to all classes of Principal Financial Products (other than Government Bonds) held by the Depository Nominee from time to time, or only such classes of those Principal Financial Products specified in the Nominee Terms and the Procedures from time to time.

Introduced [insert date]

...

“Title” in relation to Financial Products, means:

- (a) legal title where the Financial Products can be owned at law, and
- (b) equitable or beneficial title where the Financial Products can be owned only in equity.

For the purposes of Section 13, Title in relation to Principal Financial Products may also include equitable or beneficial title where the Principal Financial Products are:

- (i) held on account in an Approved Clearing House; or
- (ii) held by a custodian on behalf of the Depository Nominee under a custody arrangement, including where the Principal Financial Products are held on account in an Approved Clearing House.

For the avoidance of doubt, Title in relation to Government Bonds under these Rules refers to equitable or beneficial title and not legal title where the Government Bonds are held in the Austraclear System.

Amended 21/05/13, Amended [insert date]

**End of Document**