

Application for Revocation of Authorisations and Substitution of Replacement Authorisations

Lodged by

**Australian Stock Exchange Limited
ASX Settlement and Transfer Corporation Pty Limited**

**in relation to the establishment of a
T+3 securities settlement regime**

Date: 5 May 1999

Authorisation Nos:

A90533
A90596
A30180
A30181

Commissioners:

Asher
Shogren
Bhojani

File Nos:

CA92/5
CA96/13
CA97/5
CA97/6

SUMMARY

The Commission has considered an application from the Australian Stock Exchange Limited ("ASX") and ASX Settlement and Transfer Corporation Pty Limited ("ASTC"), a wholly owned subsidiary of ASX, requesting that the Commission revoke a series of authorisations granted on the basis of a T+5 settlement regime and grant replacement authorisations on the basis of a T+3 settlement regime.

The authorisations effected by the application are the Commission's authorisation of the ASX business rules that supported the T+5 settlement regime (A90533), granted in July 1993, and a series of authorisations (A90596, A30180, and A30181) granted in August 1998 that cover the SCH business rules, and selected ASX business rules and ASX listing rules that support the operation of the Clearing House Electronic Subregister System ("CHESS"). CHESS enables the electronic settlement of securities transactions and is operated by ASTC.

The move to a T+3 settlement regime is the final stage in series of reforms adopted by ASX to enable it to implement the recommendations on the clearance and settlement of securities transactions made by the Group of Thirty ("G30") in 1989. These recommendations have been generally accepted internationally. The adoption of a T+3 settlement regime was anticipated by the Commission in those authorisations that the applicants now wish to be replaced on the basis of a T+3 settlement regime.

The Commission accepted that a T+3 settlement regime will benefit the public by reducing the risk of settlement failure through the reduction in time between trade and settlement. The Commission did not receive any submissions indicating that ASX market participants were having difficulty settling obligations in T+3.

The Commission noted ASX's advice that many stock markets throughout the world, including those in the USA, Canada, France and Japan, now settle on a T+3 basis and accepted that a move to a T+3 settlement regime is necessary to ensure that ASX's market remains internationally competitive. This view was supported by submissions from the Australian Securities and Investments Commission ("ASIC"), the Commonwealth Department of the Treasury ("Treasury"), and market participants.

While the Commission recognised that some investors may need to alter their method of payment for share purchases in a T+3 environment, the Commission was of the view that there are sufficient alternative payment methods to ensure that the implementation of T+3 does not have a detrimental effect on competition sufficient to outweigh the benefit to the public associated with a T+3 settlement regime.

The reasoning set out in the Commission's 5 August 1998 determination concerning CHESS continues to reflect the Commission's views on CHESS.

On 14 April 1999, the Commission issued a draft determination proposing to grant the replacement authorisations. There was no request, pursuant to section 90A of the Act, for a pre-decision conference to discuss the draft determination.

The Commission therefore affirmed its draft determination and granted the replacement authorisations. The substitute authorisations replacing the 1998 CHESS authorisations were granted by the Commission on the same conditions as those contained in the

Commission's 1998 determination concerning CHES for the reasons set out in that determination.

The replacement authorisations will remain in force until 27 August 2003, when the CHES authorisations were due to expire.

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1. The application

1.1 On 12 January 1999, the Australian Stock Exchange Limited ("ASX") and ASX Settlement and Transfer Corporation Pty Limited ("ASTC"), a wholly owned subsidiary of ASX, requested that the Australian Competition and Consumer Commission ("the Commission") revoke a series of authorisations (A90533, A90596, A30180, and A30181) granted on the basis of a T+5 settlement regime and grant replacement authorisations on the basis of a T+3 settlement regime in accordance with the provisions of section 91C of the *Trade Practices Act 1974* ("the Act").

1.2 The application concerns changes to a range of procedures set out in the ASX business rules and the Securities Clearing House ("SCH") business rules that governed the operation of the T+5 settlement regime. These changes support the reduction in the time at which trades are ordinarily required to be settled from five business days to three business days after the trade is made on ASX's market. The application also concerns changes to ASX listing rule 8.2 such that, in most cases, companies will not be permitted to operate a certificated subregister for securities quoted on ASX's market.

1.3 The relevant changes to the ASX business rules and SCH business rules are set out in Attachments 1 and 2 to this determination respectively. The changes to ASX listing rule 8.2 are set out in Attachment 3 to this determination.

1.4 The authorisations effected by the application are set out below.

The T+5 authorisation (A90533).

1.5 The T+5 authorisation (A90533) was granted in a determination issued by the Commission on 21 July 1993. This authorisation covers the ASX business rules that governed the operation of the T+5 settlement regime.

1.6 This authorisation was granted under subsection 88(1) of the Act to ASX to give effect to a contract or arrangement, a provision of which has the purpose, or may have the effect, of substantially lessening competition within the meaning of section 45 of the Act.

The CHESSE authorisations (A90596, A30180, and A30181).

1.7 The CHESSE authorisations (A90596, A30180, and A30181) were granted in a determination issued by the Commission on 5 August 1998. These authorisations cover the SCH business rules, and selected ASX business rules and ASX listing rules that support the operation of the Clearing House Electronic Subregister System ("CHESSE"). CHESSE is operated by ASTC. The SCH business rules include rules that governed the operation of the T+5 settlement regime

1.8 Authorisation A90596 was granted under subsection 88(1) of the Act to ASX and ASTC to give effect to a contract or arrangement, a provision of which has the

purpose, or may have the effect, of substantially lessening competition within the meaning of section 45 of the Act.

1.9 Authorisation A30180 was granted under subsection 88(8) of the Act to ASX and ASTC to engage in conduct that constitutes or may constitute the practice of exclusive dealing.

1.10 Authorisation A30181 was granted under subsection 88(1) of the Act to ASTC to give effect to a contract or arrangement, a provision of which may be an exclusionary provision within the meaning of section 45 of the Act.

Background

1.11 The T+5 securities settlement regime is a rolling fixed period settlement system under which most transactions on ASX's market fall due for settlement on the fifth business day following the date the trade is made on ASX's market. Settlement involves the exchange of securities for payment by the participating stockbrokers or non-broker participants ("NBPs").

1.12 The vast majority of transactions on ASX's market are now settled electronically through CHESSE. CHESSE enables both the transfer of securities and the transfer of funds in a settlement to occur electronically. CHESSE was made possible by the establishment of electronic share registers to enable the electronic transfer of ASX listed securities and the establishment of electronic payment facilities for ASX market participants.

1.13 The T+5 settlement regime is maintained and enforced by the SCH business rules and the ASX business rules. Brokers must abide by the ASX business rules as a condition of participation on ASX's market. Both brokers and NBPs on ASX's market must abide by the SCH business rules as a condition of settling transactions through CHESSE. CHESSE is currently the only clearing and settlement service available for trades in CHESSE approved securities on ASX's market.

1.14 Where settlement obligations are not met within five business days there is provision in the rules enabling ASX to charge offending stockbrokers a penalty fee. The rules also enable a stockbroker to pass such penalty fees on to their client if their client is responsible for the failure to settle within 5 business days.

1.15 The obligation to settle on T+5 is a default obligation. The SCH business rules and procedures supporting the operation of CHESSE enable the parties to a transaction to agree to settle on a day other than T+5.

Interim authorisation

1.16 On 27 January 1999, the Commission granted an interim authorisation for the amendments to the ASX business rules, SCH business rules and ASX listing rule 8.2 to enable the move from a T+5 to a T+3 settlement regime. The T+3 settlement regime was implemented by ASX on 1 February 1999.

2. Statutory provisions

2.1 Section 91C of the *Trade Practices Act 1974* (“the Act”) provides that a person to whom an authorisation was granted under section 88 of the Act may apply to the Commission for a revocation of the authorisation and the substitution of a new authorisation for the one revoked.

2.2 Subsection 91C(7) of the Act provides that the Commission must not make a determination revoking an authorisation and substituting another authorisation unless the Commission is satisfied that it would not be prevented by section 90 of the Act from making a determination granting the substitute authorisation, if it were a new authorisation sought under section 88 of the Act.

2.3 Subsection 90(7) of the Act provides that the Commission shall not make a determination granting an authorisation unless it is satisfied in all the circumstances that:

1. the provisions of the proposed contract, arrangement or understanding would result, or be likely to result, in a benefit to the public; and
2. that benefit would outweigh the detriment to the public constituted by any lessening of competition that would result, or be likely to result, if the proposed contract or arrangement were made and the provision concerned were given effect to.

2.4 Subsection 90(8) of the Act provides that the Commission shall grant authorisation in relation to applications under subsections 88(1) or 88(8) only if it is satisfied in all the circumstances that the exclusionary provision or the exclusive dealing (third line forcing) conduct would result, or be likely to result, in such a benefit to the public that the arrangements should be allowed to be given effect to or the conduct should be allowed to take place.

2.5 While there is some variation in the language between the test in subsection 90(8) and the test in subsection 90(7), the Commission adopts the view taken by the Trade Practices Tribunal (the predecessor of the Australian Competition Tribunal) that in practical application the tests are essentially the same.¹

2.6 In deciding whether it should grant an authorisation in substitution for one revoked, the Commission must therefore examine the likely anti-competitive effect of the arrangement as well as the likely benefit to the public arising from the arrangement and weigh the two to determine which is the greater. Should the likely public benefit outweigh the likely anti-competitive detriment, the Commission may grant authorisation, or grant authorisation subject to conditions.

2.7 The Commission is unable to grant an authorisation if it is not likely that the arrangement will result in a benefit to the public or any likely public benefit will not outweigh the likely anti-competitive detriment.

¹ *Re Media Council of Australia (No 2)* (1987) ATPR at page 48418

3. Submissions

Supporting submissions by ASX and ASTC

3.1 The applicants advise that the consultation process for the introduction of a T+3 securities settlement regime has been long and extensive. In 1997, a T+3 questionnaire was sent to brokers, institutions, custodians and registries requesting information on the impact of T+3 on those various industry sectors. The applicants noted that they received no feedback to suggest that T+3 should not be introduced.

3.2 Responses to the ASX questionnaire indicated that 50% of brokers and non-broker participants ("NBPs") presently match settlement instructions on T+1 and 42% of brokers and NBPs presently match settlement instructions on T+3. On the basis of this information, the applicants advise that prior to the implementation of T+3, 92% of participants were already transmitting settlement instructions that would enable them to meet a T+3 settlement obligation. The applicants believe that the introduction of T+3 will have no adverse effect on market participants.

3.3 The applicants advise that some industry participants did express concern about the imposition of fail fees during the implementation of a T+3 settlement regime. The applicants responded to these concerns by waiving fail fees for the first few days after the introduction of T+3 and then charging reduced fail fees during the first three weeks after the introduction of T+3.

3.4 A T+3 settlement regime reduces the amount of time that clients have to pay brokers to purchase shares on their behalf and the applicants note that concern was expressed about how clients will pay their brokers in a T+3 regime. In general, the applicants note that it has little control over these arrangements. It is for brokers and their clients to negotiate payment arrangements. The applicants did note, however, that ASTC was involved in helping develop Westpac's sharepay system as well as being generally involved in trying to create as many different methods of payment as possible.

3.5 In addition, the applicants note that under the T+3 regime, participants will be able to agree to settle on a day other than T+3.

Submissions from interested parties and response by ASX and ASTC

3.6 The Commission invited a range of interested parties to comment on the application including all ASX brokers and NBPs as well as relevant government agencies and the Australian Shareholders Association.

3.7 The Commission received submissions from the Australian Securities and Investments Commission ("ASIC"), the Commonwealth Department of the Treasury ("Treasury"), Andrew West & Co. Limited, HKBA Nominees Limited and GIO Asset Management Limited.

3.8 Copies of these submissions are available from the Commission's public register.

ASIC and Treasury

3.9 Both ASIC and Treasury submitted that the move to a T+3 settlement regime will benefit the public by improving efficiency and reducing settlement risk. ASIC noted that the principle risk associated with the clearance and settlement of securities transactions is that the parties to the transaction will not receive either payment for the securities sold or delivery of the securities. These risks are reduced by having a short and certain time between the time of the transaction and settlement.

3.10 In addition, Treasury noted that the move to a shorter settlement period will bring the Australian Stock Exchange into line with practices being adopted in overseas exchanges.

3.11 Treasury and ASIC also noted that the removal of paper share certificates from the CHES settlement system was necessary to ensure that settlement on a T+3 basis could be achieved. This means that investors will generally no longer have the choice of holding paper share certificates as evidence of title to the securities they hold. Treasury and ASIC did not object to the removal of share certificates and noted that the move to a uncertificated environment had the strong support of the Australian Shareholders Association.

3.12 ASIC and Treasury did not express a view on the effect that the move to a T+3 settlement regime may have on competition.

Submissions from market participants

3.13 HKBA Nominees Limited argued that the move to a T+3 settlement regime was imperative to ensure that Australia's equities securities industry remained at or near world best practice.

3.14 GIO Asset Management Limited ("GIO") noted that the move to T+3 will reduce the risk of adverse price movements occurring between trade and settlement date. GIO also noted that the move to a T+3 settlement regime will make Australia's market more attractive to offshore investors and so strengthen the depth and liquidity of Australia's market to the benefit of all investors.

3.15 In contrast, Andrew West & Co. Limited ("Andrew West") argued that the move to a T+3 settlement regime may effect the public in a detrimental manner. In particular, Andrew West made the following points about the potential detrimental effect of T+3 on retail investors, particularly those in country Australia, and on small brokers:

- The purchase of shares requires a contract note to be issued and sent, usually by mail, to the client. It is not unusual for country clients to receive such contract notes after T+3. Payment may then have to be authorised or a cheque sent by return mail resulting in further delays. This means that T+3 is forcing many clients to open deposit accounts with stockbrokers or face charges for sending late payments.
- Alternative payment mechanisms offered by major financial institutions are costly, leaving payment by cheque as the only method available for some.

- While some brokers are able to offer their clients credit, there is often a fee resulting in higher costs for retail investors.
- Only large brokers that have the backing of large financial institutions will be able to offer their clients credit.

Applicants' response to the submission by Andrew West & Co. Limited

3.16 The applicants accepted that a T+3 settlement regime gives clients buying securities less time to pay for those securities, particularly if they wait until receipt of the contract note before forwarding funds to their broker. However, the applicants argued that the difficulties associated with this reduction in time for payment can be overcome in a number of ways. For example, a number of financial institutions are developing electronic payment facilities. In addition, brokers can include a deposit slip with the contract note. This enables an investor to pay funds directly into their broker's account irrespective of where the client is located.

3.17 The applicants also accepted that major financial institutions currently operate on a five business day clear and dishonour cycle for cheques. However, the applicants noted that the banks are proposing to reduce this to a three business day cycle by the end of April. This will overcome the present difference between the T+3 settlement period and the cheque clearance period.

3.18 The applicants stated that they were unable to comment on whether brokers will charge a fee for providing credit. The applicants noted that the arrangements which brokers make with investors, including small investors, for payment is entirely a matter for them. The applicants believe that these services are likely to vary from broker to broker and will be a matter for competition between brokers.

3.19 In conclusion, the applicants stated that there are solutions for the concerns expressed by Andrew West and that part of the problem relates to a reluctance on the part of some of his clients to embrace those solutions.

4. Commission's assessment

4.1 The Commission's evaluation of the application is made in accordance with the relevant statutory provisions, which are paraphrased in section 3 of this determination. In general terms, the Commission cannot issue replacement authorisations unless it is satisfied that the conduct or arrangement for which authorisation is sought is likely to result in a benefit to the public, and that benefit is sufficient to outweigh any detriment to the public constituted by any lessening of competition that is likely to result from the conduct or arrangement.

4.2 The move to a T+3 securities settlement regime is the final stage in a series of reforms adopted by ASX to enable it to implement the recommendations on the clearance and settlement of securities transactions made by the Group of Thirty ("G30") in 1989. The establishment of CHESS and the introduction of a T+5 settlement regime were also part of this reform process.

4.3 The G30 report concluded that risk in the securities settlement process could be contained by shortening the time between trade date and settlement while efficiency could be enhanced by creating a wholly uncertificated environment in member countries' securities markets. The G30 recommendations were generally accepted by securities industries internationally.

4.4 The move to a T+3 settlement regime has long been foreshadowed by ASX and was anticipated by the Commission in those authorisations that the applicants now wish to be replaced on the basis of a T+3 settlement regime.

4.5 In its 1993 determination granting authorisation for ASX business rules to support a T+5 settlement regime, the Commission's predecessor, the Trade Practices Commission, accepted that the adoption of such a fixed period settlement regime was necessary to ensure that Australia hosted an internationally competitive stock exchange. The Commission was persuaded that without such a system, the stock market in Australia would decline. In that determination, the Commission also recognised that the T+5 settlement regime was adopted as a step towards the implementation of a T+3 settlement regime.

4.6 In its 1998 determination granting authorisations for the operation of CHESS, the Commission noted that the establishment of CHESS would benefit the public by, among other things, enabling the move to a T+3 settlement regime.

4.7 Under the CHESS arrangements previously authorised by the Commission, companies could operate either or both an electronic issuer sponsored subregister and a certificated subregister in addition to the CHESS subregister for securities quoted on ASX's market. The proposal to discontinue certificated registers was noted in the Commission's 1998 CHESS determination.

4.8 In this regard, the Commission also notes ASX's advice that in January 1999 only a handful of ASX listed companies continued to operate certificated subregisters. The Commission was also influenced by the Australian Shareholders Association's

strong support for the move to uncertificated registers as indicated in its letter to ASX of 6 March 1998.

4.9 The Commission accepts that the establishment of a T+3 settlement regime will benefit the public by reducing the risk of settlement failure through the reduction in time between trade and settlement. The Commission did not receive any submissions indicating that ASX market participants were having difficulty settling obligations in T+3.

4.10 The Commission notes ASX's advice that many stock markets throughout the world, including those in the USA, Canada, France and Japan, now settle on a T+3 basis. The Commission accepts that a move to a T+3 settlement regime is necessary to ensure that ASX's market remains internationally competitive. Stock markets are an essential element of the financial system and the existence of an internationally competitive stock market in Australia is necessary for the maintenance of corporate vitality in Australia.

4.11 The Commission recognises that the move to a T+3 settlement regime has a direct effect on the settlement behaviour of almost all ASX market participants and will reduce the amount of time ordinarily available for investors to pay for share purchases. In this regard, the Commission notes the concerns raised by Andrew West regarding the effect of T+3 on the ability of small brokers to provide effective payment facilities for their clients, particularly those in country Australia.

4.12 While the Commission recognises that some investors may need to alter their method of payment for share purchases in a T+3 environment, the Commission is of the view that there are sufficient alternative payment methods to ensure that the implementation of T+3 does not have a detrimental effect on competition among brokers and NBPs sufficient to outweigh the benefit to the public associated with a T+3 settlement regime. These alternative payment methods include the use of electronic payment facilities, the use of brokers' deposit slips and the use of credit facilities supplied by brokers.

Revocation and replacement of the T+5 authorisation (A90533)

4.13 The Commission is of the view that the adoption of the new ASX business rules associated with the implementation of a T+3 settlement regime is likely to result in a benefit to the public that is sufficient to outweigh any likely anticompetitive detriment resulting from those rules. Accordingly, the Commission decided to revoke the current T+5 authorisation (A90533) and replace it with an authorisation for the ASX business rules set out in Attachment 1 to this determination.

Revocation and replacement of the CHESSE authorisations (A90596, A30180, and A30181)

4.14 The CHESSE authorisations cover the SCH business rules that govern the operation of CHESSE, including rules that governed the operation of the T+5 settlement regime. These authorisations also cover selected ASX business rules and ASX listing rules that support the operation of CHESSE. In granting these authorisations, the Commission was concerned with a wide range of issues, including the level of fees charged by ASTC for its clearing and settlement services, the ability of brokers to use

the services of a clearing and settlement service operated by a service provider other than ASTC, the potential for competition between clearing and settlement service providers in Australia, and access to CHES DvP settlement by ASX competitors.

4.15 The Commission is of the view that the benefit to the public associated with the CHES arrangements as previously authorised by the Commission will continue to outweigh any anticompetitive detriment associated with these arrangements as amended by the SCH business rules and ASX listing rule 8.2 set out in Attachments 2 and 3 to this determination.

4.16 The Commission decided, therefore, to revoke the CHES authorisations and to substitute them with new authorisations for the CHES arrangements as previously authorised and amended by this application.

4.17 The amendments to the SCH business rules and ASX listing rule 8.2 needed to move from a T+5 to a T+3 settlement regime effect only a small number of the rules covered by the CHES authorisations.

4.18 The reasoning set out in the Commission's 5 August 1998 determination concerning CHES continues to reflect the Commission's views on CHES. The Commission decided, therefore, to grant the replacement CHES authorisations subject to the same conditions as those contained in the Commission's 5 August 1998 determination concerning CHES for the reasons set out in that determination.

Time Limit

4.19 The securities industry is going through a period of radical change, including the demutualisation of ASX and the operation of CHES on a for profit basis. In recognition of this, the CHES authorisations were granted subject to a five year time limit and were due to expire on 27 August 2003.

4.20 In its 1998 CHES determination, the Commission was particularly concerned about the ability of competition, both domestic and international, to ensure that ASTC does not charge unreasonable fees for its clearing and settlement services. The Commission expressed the view that competition has the potential to provide the most efficient way of ensuring that CHES tariffs are kept at a level that will enable the public benefits of CHES to be realised. However, the actual effect on CHES tariffs of operating CHES on a for profit basis remains uncertain.

4.21 The Commission's view on these matters has not changed. When the Commission granted the CHES authorisations in 1998, the rate of return for CHES was based on a forecast of 9,000 transactions per day over a seven year cycle. In this regard, the Commission notes that the actual number of transactions per day has consistently been much higher than this forecast.

4.22 The Commission decided, therefore, to grant these substitute authorisations until 27 August 2003, when the CHES authorisations were due to expire.

5. Determination

5.1 For the reasons set out in section 4 of this determination, the Commission concludes that:

1. the adoption of the ASX business rules set out in Attachment 1 to this determination are likely to result in a benefit to the public, and that benefit would outweigh the detriment to the public constituted by any lessening of competition that is likely to result from the applicants giving effect to these rules; and
2. the benefit to the public associated with the CHESSE arrangements as previously authorised by the Commission will continue to outweigh any anticompetitive detriment associated with these arrangements as amended by the SCH business rules and ASX listing rule 8.2 set out in Attachments 2 and 3 to this determination.

5.2 On 14 April 1999, the Commission issued a draft determination proposing to grant the replacement authorisations requested by ASX and ASTC in this application. There was no request, pursuant to section 90A of the Act, for a pre-decision conference to discuss the draft determination.

5.3 The Commission therefore affirms its draft determination and:

- (a) revokes the T+5 authorisation (A90533) and grants a substitute authorisation for those ASX business rules that are set out in Attachment 1 to this determination; and
- (b) revokes the CHESSE authorisations (A90596, A30180, and A30181) and grants substitute authorisations for:
 - (i) the SCH business rules to the extent that they were authorised under the revoked CHESSE authorisations (A90596, A30180, and A30181) and amended by the SCH business rules set out in Attachment 2 to this determination; and
 - (ii) the ASX listing rules and the ASX business rules to the extent that they were authorised under the revoked CHESSE authorisations (A90596, A30180, and A30181) and amended by the new ASX listing rule 8.2 set out in Attachment 3 to this determination.

5.4 These substitute authorisations of the SCH business rules, and selected ASX business rules and ASX listing rules to the extent that they were authorised under the CHESSE authorisations and amended by this application are subject to the same conditions as those contained in the Commission's 5 August 1998 determination concerning CHESSE for the reasons set out in that determination.

5.5 These substitute authorisations (A90533, A90596, A30180, and A30181) are granted until 27 August 2003.

5.7 These substitute authorisation apply to or in relation to persons who become party to these arrangements after these authorisations are granted.

5.8 This determination is made on 5 May 1999. If no application for a review of the determination is made to the Australian Competition Tribunal, it will come into force on 27 May 1999. If an application for review is made to the Tribunal, the determination will come into force:

- where the application is not withdrawn - on the day on which the Tribunal makes a determination on the review: or
- where the application is withdrawn - on the day on which the application is withdrawn.

5.8 The interim authorisations, granted by the Commission on 27 January 1999 for the amendments to the ASX business rules, SCH business rules and ASX listing rule 8.2 set out in Attachments 1 to 3 of this determination, will remain in force until such time as this determination comes into force, or until such further order is made by the Australian Competition Tribunal.

Attachment 1

ASX BUSINESS RULES

Details of ASX Business Rules which were the subject of the T+5 application which have now been modified for T+3 are as follows:

Rules 4.5(2), 4.5(5)*, 4.10(12), 4.14(5), 4.15(2)*, 4.22(2)*, 4.33(1), 4.33(2), 4.33(3)(b)*

* While this rule was the subject of the initial application, the original version did not have any time limits. The rule which is the subject of the proposed change was subsequently amended.

4.5 CALLS - CONTRIBUTING SHARES

PAYMENT AFTER DATE OF SALE - NO LIABILITY

- (2) Except as provided for in Rule 4.5(5), in contracts for the sale and purchase of shares in No Liability companies any call becoming due between the date of sale and date of settlement shall not be paid by the selling Broker to the company unless the buying Broker places the selling Broker in funds not less than three ~~five~~-Business Days prior to the advertised date of forfeiture sale or postponed date of forfeiture sale for the appropriate amount of the call payable.

REASON FOR AMENDMENT

This rule was originally changed for T+5. It is appropriate that it should also change for T+3.

- (5) In forward delivery transactions for the sale and purchase of shares in No Liability companies any call becoming due between the date of sale and the date of settlement both days inclusive, shall only be paid by the selling Broker to the company on the prior written instruction of the buying Broker and shall be paid by the buying Broker to the selling Broker at the time of issuing the instruction. The buying Broker shall ensure the instruction and payment is received by the selling Broker no later than the third ~~fifth~~ Business Day prior to and inclusive of the date of the forfeiture sale.

REASON FOR AMENDMENT

This change is consistent with the change made at Rule 4.5(2) and is necessary for T+3.

4.10 DIVIDEND, INTEREST, CAPITAL RETURNS

- (1) Unless otherwise determined by the Exchange, transactions in Securities (other than Commonwealth Government and Semi-Government loans) will be officially quoted by the Exchange on SEATS as "ex dividend", "ex interest" or "ex capital return" as the case may be, on the fifth ~~seventh~~-Business Day prior to and inclusive of the date of closing of transfer books to determine shareholders entitled to participate in the distribution, or in the case of CHES Approved Securities, the Record Date.

REASON FOR AMENDMENT

Presently, the commencement of the "ex" date is two days longer than the settlement delegation. There has been no change in this general policy and accordingly, it is proposed that the "ex" date will commence on the fifth Business Day prior to an inclusive of the Record Date.

- (12) (i) Subject to Rule 4.10(12)(ii), when in the opinion of a buying Broker a transfer of Securities sold "cum dividend" "cum interest" or "cum capital return" may remain undelivered on the third Business Day prior to and inclusive of the books closing date and:
- (d) the selling Broker shall:
- (iii) deliver the Securities which are the result of the election or nomination within three ~~five~~-Business Days of the date of despatch of certificates or list of allotments to the security holder's uncertificated account.

REASON FOR AMENDMENT

The delivery obligation change from "five" days to "three" days is consistent with the move from T+5 to T+3.

4.14 DOCUMENTS - MARKED TRANSFERS

- (5) A marked transfer shall not be good delivery during the last ~~three~~ five Business Days currency of the marking. The currency of a marked transfer shall not be extended. Any extension of a marking shall invalidate the transfer for delivery purposes.

REASON FOR AMENDMENT

The T+5 Rules resulted in a change from "ten" to "five". This change from "five" to "three" is consistent with that change.

4.15 DOCUMENTS - REGISTRATION

- 4.15.1 (1) For the purposes of this Rule:
- "transfers" or "renunciations" shall include "split transfers" and "split renunciations".
- (2) Except where transfers or renunciations require the transferee's signature:
- (i) The buying Broker shall forward Security or Brokers Transfers to the Issuer for registration within ~~three~~ five Business Days of receipt of documents from the selling Broker, PROVIDED THAT when the books of an Issuer close for any purpose all transfers in its possession must be lodged with the Issuer before the registers close, unless the transfers are in respect of a transaction settled on an "ex entitlement" basis.

4.21 NEW ISSUES - CUM BONUS

- (1) Bonus issues not subject to ratification by a meeting of holders of Equity Securities shall be governed by the following:
- (i) Unless otherwise determined by the Exchange, transactions in Securities will be officially quoted by the Exchange on SEATS, as "ex bonus" on the ~~fifth~~ seventh Business Day prior to and inclusive of, either the date of closing of the transfer books to determine security holders entitled to participate in the benefit, or in the case of CHES Approved Securities, the Record Date.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore commences on the fifth Business Day before the Record Date.

- (2) Bonus issues subject to ratification by a meeting of holders of Equity Securities shall be governed by the following:
- (i) Unless otherwise determined by the Exchange, transactions in Securities will be officially quoted by the Exchange on SEATS, as "ex bonus" on whichever is the later of the Business Day following the meeting of holders of Equity Securities which ratifies the issue, or on the ~~fifth~~ seventh Business Day prior to and inclusive of, either the date of closing of the transfer books, to determine security holders entitled to participate in the benefit, or, in the case of CHES Approved Securities, the Record Date.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore commences on the fifth Business Day before the Record Date.

4.22 NEW ISSUES - CUM ENTITLEMENT

- (1) Unless otherwise determined by the Exchange, transactions in Securities carrying a specific entitlement of non-renounceable rights, will be officially quoted by the Exchange on SEATS, as "ex entitlement" on the ~~fifth~~ seventh Business Day prior to and inclusive of, either the date of closing of the transfer books to determine securities holders entitled to participate in the benefit, or, in the case of CHES Approved Securities, the Record Date.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore commences on the fifth Business Day before the Record Date.

- (2) (a) (ii) If a buying Broker lodges a transfer of Non CHES Securities in breach of Rule 4.22(2)(a)(i)(b) causing loss to the seller, notwithstanding any breach by the selling Broker of Rule 4.22(2)(a)(i)(a):
- (c) the buying Broker shall provide to the selling Broker:
- (A) where the loss was cash, that amount of money on the Business Day following receipt of the notice; and
- (B) where the loss was Securities, an equivalent number of equivalent Securities within ~~three~~ five Business Days of receipt of share certificates or list of allotments to the security holder's uncertificated account.

REASON FOR AMENDMENT

These changes from five or fifth to three or third are consistent with changes to the Listing Rules.

- (3) (i) A selling Broker may during the two Business Days prior to and inclusive of the date of closing of the transfer books to determine holders of Equity Securities entitled to participate in the issue, effect delivery of the old issue Securities by a deduction from the settlement of a cash adjustment (refer Rule 4.37) in lieu of the accruing Securities.
- (ii) Unless advised by the buying Broker on or before the ~~third~~ fifth Business Day prior to and inclusive of the final date of closing of acceptances of the offer that the buyer does not wish to participate in the issue, the cash adjustment shall be paid by the buying Broker upon delivery by the selling Broker of the accruing new issue Securities.

REASON FOR AMENDMENT

These changes from five or fifth to three or third are consistent with changes to the Listing Rules.

- (3A) Notwithstanding any Rule to the contrary in Section 4, when in a market established in accordance with Rule 2.9, a transaction is executed on a "cum entitlement" basis during a period when normal trading for the Security the subject of the transaction is "ex entitlement" and the buying Broker requires protection in respect of the entitlement:
- (i) Where the transaction is effected before the ~~fifth~~ seventh Business Day prior to but not inclusive of the final date for lodgement of acceptances of the offer, the buying Broker shall, on or before the ~~fifth~~ seventh Business Day prior to and inclusive of the final date for lodgement of acceptances of the offer, advise the selling Broker in writing of the number of Securities for which protection is required and attach to the advice sufficient application money for that number of Securities;

- (ii) Where the transaction is effected on the ~~fifth~~^{seventh} Business Day or any subsequent Business Day prior to but not inclusive of the final date for lodgement of acceptances of the offer the buying Broker shall, no later than the close of business on the Business Day following the date of the transaction, advise the selling Broker in writing of the number of Securities for which protection is required and attach to the advice sufficient application money for that number of Securities;

REASON FOR AMENDMENT

These changes are consistent with reductions in the length of the "ex" period from seven days to five days.

4.23 NEW ISSUES - CUM PRIORITY

- (1) Unless otherwise determined by the Exchange transactions in Securities carrying a general priority, without a specific entitlement to participate in a new issue for which there are no renounceable rights, will be officially quoted by the Exchange on SEATS, as "ex priority" on the ~~fifth~~^{seventh} Business Day prior to and inclusive of , either the date of closing of transfer books to determine security holders entitled to participate in the benefit, or, in the case of CHES Approved Securities, the Record Date.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore commences on the fifth Business Day before the Record Date.

4.24 NEW ISSUES - CUM RIGHTS

- (1) Rights issues not subject to ratification by meeting of holders of Equity Securities shall be governed by the following:
 - (i) Unless otherwise determined by the Exchange, transactions in Securities will be officially quoted by the Exchange on SEATS, as "ex rights" on the ~~fifth~~^{seventh} Business Day prior to and inclusive of, either the date of closing of the transfer books to determine security holders entitled to participate in the benefit, or, in the case of CHES Approved Securities, the Record Date.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore commences on the fifth Business Day before the Record Date.

- (2) Rights issues subject to ratification by a meeting of holders of Equity Securities shall be governed by the following:
 - (i) Unless otherwise determined by the Exchange transactions in Securities will be officially quoted by the Exchange on SEATS, as "ex rights" on whichever is the later of, the first Business Day following the meeting of holders of Equity Securities which ratifies the issue, or the ~~fifth~~^{seventh} Business Day prior to and inclusive of, either the date of closing of the transfer books to determine security holders entitled to participate in the benefit.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore commences on the fifth Business Day before the Record Date.

4.33 SETTLEMENT OF TRANSACTIONS

- (1) Except in the case of sales of Securities:
- (a) for prompt delivery pursuant to Rule 4.4; or
 - (b) for Forward Delivery Transactions as defined in Rule 2.13; or
 - (c) when by mutual consent the parties agree to a particular settlement date no more than 30 days after the date of the transaction; or
 - (d) classified by the Exchange as deferred delivery; or
 - (e) deleted.
 - (f) classified by the Exchange as deferred settlement,

settlement of sales shall be on the third ~~fourth~~ Business Day after the date of the transaction as determined by the BBS system.

REASON FOR AMENDMENT

This change implements the policy decision to move from a T+5 settlement regime to a T+3 settlement regime.

- (2) The Settlement Day of sale of Securities referred to in Rule 4.33(1)(d), when:
- (a) the classification has been removed; and
 - (b) the parties have not agreed to a particular settlement date,

shall be the third ~~fourth~~ Business Day after the day on which the classification was removed.

REASON FOR AMENDMENT

This change is consistent with the policy of having an "ex" period which is two days longer than the settlement period. An ex period in a T+3 settlement regime therefore is five Business Days long.

- (2A) Subject to Rule 2.12.4(3) and 2.12.4(4), the Settlement Day of a sale of Securities referred to in Rule 4.33(1)(f) shall be the fourth ~~sixth~~ Business Day after the Despatch Date for those Securities.

REASON FOR AMENDMENT

The reduction in the time period for settlement of securities which are classified as "deferred settlement" is consistent with the move from T+5 to T+3 and is consistent with the changes made to the listing rules.

- (3) (b) A delivery in settlement of a sale of Securities identified by Rule 4.33(1)(d) may be made on or after the third ~~fourth~~ Business Day subsequent to the date of sale as determined by the BBS system.

REASON FOR AMENDMENT

This change is consistent with the policy change in the settlement obligation from T+5 to T+3.

Attachment 2

SCH BUSINESS RULES

All the SCH Business Rules which have been modified for the commencement of T+3 were the subject of the ACCC's 5 August 1998 authorisation.

5.4A. Establishing a CHESSE Subregister for a New Issue of CHESSE Approved Securities

- 5.4A.7 (b) if the Securities are entered into a Certificated Holding, dispatch a Certificate to the Holder within ~~35~~ Business Days of entering the Securities into the Certificated Holding.

REASON FOR AMENDMENT

This change is consistent with the changes to the Listing Rules for T+3.

7.4. SEATS Transactions - Scheduled for Settlement

- 7.4.2 (Note: *If the Settlement Date is not notified to SCH by End of Day on the second ~~fourth~~ Business Day before the specified Settlement Date, the transaction will not be novated to TNSC, and will only be 'netted' on an administrative basis).*

REASON FOR AMENDMENT

To accord with the move to T+3.

7.39. Reconstructions

- 7.39.1 (c) a Parent Settlement Instruction does not settle in full by End of Day on the 57th Business Day after the effective date,
- (e) reschedule the Parent Settlement Instruction for the Settlement Date calculated in accordance with ASX Business Rule 4.33.
- 7.39.2 (c) a Parent Settlement Instruction does not settle in full by End of Day on the 57th Business Day after the effective date,

REASON FOR AMENDMENT

The existing rule is based on a T+5 settlement regime with two extra days. The rule has accordingly been modified to accord with T+3.

8.5B. Electronic Access to Certificated Holdings - Quotation of SRNs

- 8.5B.5 (g) within ~~35~~ Business Days of giving effect to the consolidation, despatch to the Holder such Certificates specifying the current SRN of the Holder as are required.

REASON FOR AMENDMENT

This change is consistent with the change in the Listing Rules from five Business Days to three Business Days for the issue of certificates by the Issuer

8.7. Allocation of Held Balance Reference Numbers to Participants

- 8.7.3. If:
- (a) an Issuer allocates a Held Balance Reference Number in respect of a Certificate under Rule 8.7.1; and
- (b) after a period of 1 month from the date the Issuer allocated the Held Balance Reference Number, a number of Securities remain in the Held Balance,

the Issuer shall, within ~~3~~ Business Days of the expiry of that period, despatch a Certificate in respect of those Securities to the Participant that originally requested the Held Balance.

REASON FOR AMENDMENT

The change is consistent with the change in the Listing Rules for T+3.

9.2. Holdings under a Broker's Control

9.2.4. Subject to Rule 9.2.5. a Broker shall not hold the same Securities in a Settlement Holding or an Accumulation Holding for a period greater than ~~3~~ Business Days except if, in the case of Securities in an Accumulation Holding:

REASON FOR AMENDMENT

To coincide with T+3. The period that Brokers are allowed to hold securities in a settlement holding, is consistent with the settlement period and therefore needs to be changed from 5 to 3.

9.2.5. If Securities are being held in a Broker's Accumulation Holding for a period greater than ~~3~~ Business Days in any of the circumstances set out in Rule 9.2.4(a), (b) or (c), the Broker shall initiate a Message to Transfer those Securities to a Holding of the client within two Business Days of the date upon which the last of those circumstances ceases to apply.

REASON FOR AMENDMENT

Consequential change.

12.7. Suspension of Processing on a CHES Subregister for a Reconstruction

- 12.7.1 (c) reschedule a Settlement Instruction that is received before End of Day on the ~~fifth~~^{seventh} Business Day after the effective date that would Transfer Securities in that class between End of Day on the effective date and End of Day on the Despatch Date; or
- (d) reject a Settlement Instruction or Message that is received after End of Day on the effective date that would Transfer or Convert Securities in that class between End of Day on the ~~fifth~~^{seventh} Business Day after the effective date and End of Day on the Despatch Date,

REASON FOR AMENDMENT

This change is consistent with the changes made to the Listing Rules for T+3.

16.10. Compulsory Acquisition

16.10.3. SCH shall reject any Message initiating a Transfer or Conversion of outstanding shares that SCH receives after End of Day on the ~~5th~~^{7th} Business Day after quotation of the outstanding shares by the Exchange has ceased.

REASON FOR AMENDMENT

The existing reference to "7th Business Day" is based on a T+5 settlement regime with 2 additional days for "facts". There reference to 7th therefore needs to be changed to fifth.

Appendix 1

Rule 7.4.2(d)	SCH to be notified of Settlement Date	before End of Day on the second fourth Business Day before the Settlement Date notified to SCH by the selling broker and buying broker under Rule 7.4.2(c).
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REASON FOR AMENDMENT

On the assumption that most of these transactions relate to trades.

Rule 7.5.2.	Exchange to notify SCH that Broker transaction cancelled	before End of Day on the second fourth Business Day before the Settlement Date notified to SCH by the Exchange under Rule 7.4.
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Rule 7.12.1.	Brokers to Match removal request for transaction from Scheduled Settlement	<ul style="list-style-type: none"> • for Broker / Broker transactions that are novated to TNSC - before End of Day on the second fourth Business Day before the Settlement Date notified to SCH by the Exchange under Rule 7.4; • otherwise - before Settlement Cut-Off on the Settlement Date notified to SCH by the Exchange under Rule 7.4.
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Rule 7.13.1.	Brokers to agree to exclude transaction from netting and transmit request	before End of Day on the second fourth Business Day before the Settlement Date notified to SCH by the Exchange under Rule 7.4.
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Rule 7.13.4.	Broker to transmit request to SCH to reinstate transaction to netting	before End of Day on the second fourth Business Day before the Settlement Date notified to SCH by the Exchange under Rule 7.4.
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REASON FOR AMENDMENT

The move to T+3 will require amendment to the scheduled times. By an large the phrase "before End of Day on the fourth business day before the Settlement Date ..." has been amended so that it is the "second Business Day before the Settlement Date ...". This translates to an obligation to perform various activities on T+1. This in effect the same as the existing obligation in respect of T+5. Likewise the reference to "by Start of Day on the third Business Day before the day on which Scheduled Settlement is due ..." has been changed to "the Business Day before the day on which Scheduled Settlement is due to be effected". The existing obligation effectively takes place on T+2. The change retains this relation.

In the case of both changes the number of days between settlement and the obligation have changed, but the number of days between trade date and the relevant date have not changed. The changes are therefore consistent with the existing Scheduled Times.

Rule 8.12.1.	Issuer to send a Certificate to the Holder of a Certificated Holding	within 3 Business days of SCH queuing the Demand Transfer or Conversion Message for collection by the Issuer.
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REASON FOR AMENDMENT

Provides consistency with the Listing Rules provisions.

Attachment 3

ASX LISTING RULES

ASX Listing Rule 8.2 is included in the ACCC's authorisation dated 5 August 1998.

LISTING RULE 8.2

Proposal

46. Listing rule 8.2 be amended as follows:

8.2 If an entity's *securities are *CHES approved securities, in addition to the *CHES subregister it must provide for an *issuer sponsored subregister, or a certificated subregister, or both.

Introduced 1/7/96. Origin: Listing Rule 3Y(1)(a).

~~Note: An entity may have up to 3 subregisters in the CHES environment that make up its register:~~

~~• a CHES subregister, which is an uncertificated subregister that SCH maintains on behalf of the entity;~~

~~• an issuer sponsored subregister, which is an uncertificated subregister maintained by the entity through its registry; and~~

~~• a certificated subregister, which is a certificated subregister maintained by the entity through its registry.~~

~~Cross reference: Chapter 9, SCH Business Rule 8.2.2. SCH Business Rule 8.10.1 deals with standing instructions on changes between subregisters.~~

8.2.1 A certificated subregister may only be provided for the following securities.

(a) Unquoted *securities: If the unquoted *securities entity has are *restricted securities, they must be held on issue it must operate a certificated subregister.

Introduced 1/7/96. Amended 1/7/98, 1/2/99.

(b) *Securities that the laws of a foreign jurisdiction do not permit to be held on an issuer sponsored subregister.

Introduced 1/2/99.

Example: Securities of an entity incorporated in a foreign jurisdiction that is not allowed to have an issuer sponsored subregister. The entity must have a certificated subregister.

Securities of an entity incorporated in Australia and listed in a foreign jurisdiction which does not allow an issuer sponsored subregister. The entity must have an issuer sponsored subregister in Australia and may operate a certificated subregister in the foreign jurisdiction.

Note: An entity may have up to 3 subregisters in the CHES environment that make up its register:

- a CHES subregister, which is an uncertificated subregister that SCH maintains on behalf of the entity;
- an issuer sponsored subregister, which is an uncertificated subregister maintained by the entity through its registry; and
- a certificated subregister, which is maintained by the entity through its registry. However, unless the entity is prevented by the laws of a foreign jurisdiction from operating an issuer sponsored subregister, the only securities that may be kept on the certificated subregister are unquoted securities.

Cross reference: Chapter 9, SCH Business Rule 8.2.2. SCH Business Rule 8.10.1 deals with standing instructions on changes between subregisters.

