

**SECTION 4 ASX ANNOUNCEMENT AND IMPOSITION OF PENALTY**

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## **SECTION 4 ASX ANNOUNCEMENT AND IMPOSITION OF PENALTY**

### **4.1 ASX ANNOUNCEMENT**

#### **4.1.1 Announcement**

Without limitation to any announcement or publication which ASX is permitted to make under the relevant ASX Operating Rules, subject to Rules 3.3 and 3.4:

- (a) subject to paragraph (b) below, ASX will, unless it determines otherwise, make public, in the form and manner ASX considers appropriate having regard to Rule 1.10.2, any of the following matters:
  - (i) enforcement action (including pursuant to Rule 2.4) against a Relevant Person, including the exercise by ASX of any of its powers under Rules 2.2.1 or 2.2.2;
  - (ii) the suspension or termination of a Relevant Person's admission as a Participant in a default situation;
  - (iii) such other matters that are set out in the Procedures.
- (b) an Appeal Tribunal will, unless it determines otherwise, direct ASX to make public, in the form and manner ASX considers appropriate having regard to Rule 1.10.2, any of the following matters:
  - (i) enforcement action against a Relevant Person which has been the subject of an appeal (and has not been entirely set aside), including the exercise by ASX of any of its powers under Rules 2.2.1 or 2.2.2 and the affirmation or variation by an Appeal Tribunal of such exercise of powers;
  - (ii) the suspension or termination of a Relevant Person's admission as a Participant in a default situation which has been the subject of an appeal;
  - (iii) such other matters that are set out in the Procedures.
- (c) Unless ASX or an Appeal Tribunal (as the case may be) determines otherwise, an announcement or publication made under Rule 4.1.1(a) or 4.1.1(b) will include:
  - (i) the name of the Relevant Person, except in the circumstances set out in the Procedures; and
  - (ii) any other information which ASX or the Appeal Tribunal (as the case may be) considers relevant to those matters.

Amended 01/08/10

#### **4.1.2 Disclosure**

A Relevant Person must not take (and must procure that its Employees do not take) any action or proceeding (including without limitation an action for damages) against any person for publishing or circulating any announcement, or which would stop any person from publishing or circulating any announcement under Rule 4.1.1 (or under any other relevant Operating Rule which permits such announcement or publication) or making any record in the register under Rule 4.1.3. Any person against whom an action or proceeding is taken in breach of this Rule 4.1.2 may rely on this Rule 4.1.2 as a defence to that action or proceeding.

Amended 01/08/10

#### **4.1.3 Register of Banned Relevant Persons**

ASX will enter the name of a person in respect of whom an order is made under Rule 2.2.1(f) on a register made available to all Participants.

Amended 01/08/10

### **4.2 IMPOSITION OF PENALTY**

#### **4.2.1 Payment of monetary penalties and costs**

Any monetary penalty or cost is a debt to ASX due and payable by the Relevant Person on whom it is imposed or by whom it is payable, and shall be payable within twenty eight (28) Business Days of a decision being notified to a Relevant Person unless expressly provided otherwise in the Procedures. ASX will add GST to the monetary penalty or cost notified to the Relevant Person.

Amended 01/08/10

#### **4.2.2 ASX may Terminate Participant Status**

If the monetary penalty or cost referred to is not paid by the Relevant Person by the due date ASX may suspend or terminate the status and rights of that Relevant Person.

Amended 01/08/10

#### **4.2.3 Failure to pay sums payable**

Unless expressly provided otherwise in the relevant Operating Rules, if any Relevant Person fails to pay any monetary penalty or cost under this Rulebook (in this Rule 4.2.3, a "Sum") for which it is liable to ASX or any Related Party of ASX, within 1 month from the time when such sum became payable, the amount of such sum will carry interest at the rate determined in accordance with Schedule 5 of the Uniform Civil Procedure Rules 2005 (NSW).

Introduced 01/08/10

#### **4.2.4 ASX may Pursue Legal Action**

Notwithstanding any termination of Relevant Person status, ASX may by legal action pursue payment of the monetary penalty or cost (together with interest) or may accept security therefore or may agree to payment over a period of time.

Amended 01/08/10

#### **4.2.5 Monetary penalty under Alleged Minor Infringement Notice**

For the avoidance of doubt, Rules 4.2.1 to 4.2.4 do not apply to a monetary penalty under an Alleged Minor Infringement Notice, although ASX will add GST to the monetary penalty under an Alleged Minor Infringement Notice.

Introduced 01/08/10

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