

Guidance Note: Clearing And Settlement

References Chapter 7, SIM VSE Business Rules
s792G & Part 7.11, Corporations Act

Introduction

This guidance note has been issued to assist SIM VSE brokers comply with their clearing and settlement obligations under the SIM VSE Business Rules.

Regulatory Objectives

The key objectives of the SIM VSE market clearing and settlement arrangements are to:

- complete transactions entered into on the SIM VSE market as efficiently as possible;
- minimise the risk of transactions not being settled in a timely way;
- resolve outstanding issues in relation to clearing and settlement of transactions efficiently; and
- achieve the above aims as cost effectively as possible.

SIM VSE regards achieving the above objectives as an important way of meeting several of the key principles upon which the SIM VSE Business Rules are based.

Primary Obligations of SIM VSE Brokers

Chapter 7 of the SIM VSE Business Rules sets out the requirements of SIM VSE brokers in relation to clearing and settlement.

The primary obligations of SIM VSE brokers under Chapter 7 are to:

- settle trades on a broker to broker basis (Rule 7.01 for uncertificated transfers and Rule 7.29 for certificated transfers); and
- settle on a T + 5 basis (Rule 7.30 for uncertificated transfers); and
- settle on a T + 3 basis (Rule 7.22 for uncertificated securities)

Chapter 7 contains detailed provisions about how SIM VSE brokers are to deal with corporate actions and taxation adjustments and requirements in relation to documents. A number of these provisions have been included to accommodate the requirements of Part 7.11 of the Corporations Act.

SIM VSE brokers should ensure they are well aware of their obligations in relation to clearing and settlement and corporate actions.

In particular, they should ensure they have relevant procedures in place so they can comply with their obligations efficiently and effectively.

Certificated and Uncertificated Transfers

Rules 7.01 to 7.28 apply in respect of un-certificated transfers of securities via an approved settlement and clearing facility. The approved facility is ASX Clear CHESSE.

Rules 7.29 to 7.89 apply in respect of certificated transfers of securities on a broker to broker basis. That is transfers of non-CHESSE approved securities.

Settlement Agents

Under SIM VSE Business Rules 7.23 and 7.35, a SIM VSE broker may appoint a settlement agent approved by SIM VSE to carry out their delivery and settlement obligations under Chapter 7.

To be approved by SIM VSE to act as a settlement agent an organisation must satisfy either SIM VSE Business Rule 7.23 or 7.33.

Under SIM VSE Business Rules 7.27 or 7.35 a SIM VSE broker may, upon giving prior written notice to SIM VSE, appoint an organisation approved by SIM VSE to act as their settlement agent.

If a SIM VSE broker appoints a settlement agent they must ensure the settlement agent complies with the SIM VSE Business Rules in relation to settlement of the SIM VSE broker's transactions (Rules 7.24 or 7.37).

The SIM VSE broker also remains responsible for the actions of their settlement agent (Rule 7.26 or 7.38).

As at the time of issue of this Guidance Note, SIM VSE had approved the organisations in the Table to act as settlement agents for SIM VSE Brokers.

Clearing and Settlement Administrator

Under SIM VSE Business Rule 7.39, SIM VSE may appoint a clearing and settlement administrator on such terms as SIM VSE believes are appropriate to monitor and report to SIM VSE on the settlement of transactions that take place on the SIM VSE market.

SIM VSE has appointed National Stock Exchange of Australia Limited as clearing and settlement administrator.

A SIM VSE broker, or their settlement agent, is required under SIM VSE Business Rule 7.41 to notify the clearing & settlement administrator of all of their settled and unsettled transactions by 4.30 pm on the day the transactions were due to settle.

SIM VSE Powers in Relation to Clearing and Settlement Obligations

SIM VSE reviews the reports from the clearing and settlement administrator to ensure that transactions on the SIM VSE market are being settled in an orderly way.

If SIM VSE believes a SIM VSE broker is not complying with their settlement obligations, SIM VSE has a range of actions it can potentially take against the SIM VSE broker under the SIM VSE Business Rules.

In particular, SIM VSE can:

- suspend a SIM VSE broker's dealing rights under Rule 6.19;
- impose fees for late settlement under Rule 7.22 or 7.32;
- take disciplinary action against the SIM VSE broker under Chapter 8 of the SIM VSE Business Rules;
- suspend or cancel a SIM VSE broker's recognition under Chapter 8;
- declare a SIM VSE broker a defaulter under chapter 8; or

a combination of the above.

Scope of Guidance Note

This guidance note is intended to assist SIM VSE brokers comply with their obligations under the SIM VSE Business Rules. It is not exhaustive, does not in any way act as a substitute for any SIM VSE Business Rules and is not binding on SIM VSE in its application of the Rules in any particular case.

This guidance note does not constitute legal advice by SIM VSE. Where appropriate, SIM VSE brokers should obtain their own professional advice about compliance with their obligations under the SIM VSE Business Rules.

Queries

If you have queries about this guidance note please contact the SIM VSE Broker office on:

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Table

Approved Clearing & Settlement Agents
National Stock Exchange of Australia Limited
NSX Clearing Nominees Pty Ltd