

## Chapter 4: Rights Attaching to Securities

### OVERVIEW

This chapter sets out the rights and obligations that must be attached to equity securities of a listed entity. Unless otherwise stated, the requirements in this chapter apply to both quoted and unquoted securities of a listed entity.

#### General Requirements for Equity Securities

- 4.1 The rights attaching to each class of an entity's equity securities must, in the opinion of the Exchange, be appropriate and equitable.
- 4.2 An entity may only have more than one class of ordinary securities if:
  - (a) the Exchange provides prior written approval to the terms of an additional class; or
  - (b) the additional class are partly paid securities which, if fully paid, would be in the same class as the ordinary securities.
- 4.3 Where a resolution is decided on:
  - (a) a show of hands, each holder of an ordinary security, and each holder of a preference security who has a right to vote, must be entitled to one vote;
  - (b) a poll, each holder of an ordinary security, and each holder of a preference security who has a right to vote, must be entitled to one vote for each fully paid security and a fraction of a vote for each partly paid security (being the proportion which the amount paid up is of the total amounts paid and payable and excluding any amounts paid in advance of a call).
- 4.4 An entity must not fail to recognise a security holder's right to vote, or receive dividends, in respect of particular securities unless:
  - (a) calls due and payable on the securities have not been paid;
  - (b) in the case of a voting right, the instrument appointing a proxy in relation to the securities has not been deposited in accordance with the entity's constitution;
  - (c) in the case of a voting right, the person became the holder of those securities after the time determined under the Corporations Act as the "specified time" for deciding who held securities for the purposes of the meeting;
  - (d) the right has been removed or changed under Australian legislation, or under a provision in the entity's constitution that must be included to comply with Australian legislation;
  - (e) the right has been removed or changed under a provision in the entity's constitution that is permitted by the Listing Rules;
  - (f) the right has been removed or changed under a provision in the entity's constitution that the Exchange has approved as appropriate and equitable; or
  - (g) the right has been removed or changed under a court order.
- 4.5 The holder of a partly paid security must not be entitled to a greater proportion of either:
  - (a) a dividend; or

- (b) an issue of bonus securities

than the proportion which the amount paid up is of the total amounts paid and payable. For the purposes of this rule, amounts paid in advance of a call are to be ignored when calculating the proportion.

- 4.6 A security holder must not be divested of any equity security unless the divestment is under:
- (a) Australian legislation, and the mechanism the entity adopts for divesting the security is contained in the legislation or approved by the Exchange as appropriate and equitable in the circumstances;
  - (b) a provision in the entity's constitution that must be included to comply with Australian legislation. Any such provision must not continue to operate once it is no longer necessary;
  - (c) a provision in the entity's constitution that is permitted by the Listing Rules or that the Exchange has approved as appropriate and equitable;
  - (d) a provision in the entity's constitution that the Exchange has approved as appropriate and equitable;
  - (e) a court order; or
  - (f) a lien that is permitted by the Listing Rules.
- 4.7 An entity may only have a lien over particular securities, or over dividends it pays on them, where:
- (a) a call or instalment is due but unpaid on the securities;
  - (b) if the securities were acquired under an employee incentive scheme, an amount is owed to the entity for acquiring them; or
  - (c) the entity is required by law to pay (and has paid) an amount in respect of the securities of a holder or deceased former holder.

In each case, the lien may also cover reasonable interest and expenses incurred by the entity as a result of the amount not being paid.

#### **Specific Preference Security Requirements**

- 4.8 The holder of a preference share must have a right to vote:
- (a) while all, or part, of a dividend in relation to the preference share is in arrears;
  - (b) on a proposal to reduce the entity's share capital;
  - (c) on a resolution to approve the terms of a buy-back agreement;
  - (d) on a proposal that affects rights attached to the preference share;
  - (e) on a proposal to wind up the entity;
  - (f) on a proposal for the disposal of the entity's main undertaking; or
  - (g) during the winding up of the entity.
- 4.9 Unless otherwise agreed by the Exchange, the holder of a preference share must not have a right to vote in any circumstances other than those set out in rule 4.8.

- 4.10 A holder of a preference security that is not a share must have a right to vote as set out in rule 4.8 (with any necessary adaptations).
- 4.11 A holder of a preference security must be entitled to:
- (a) a dividend at a commercial rate in preference to holders of ordinary securities;
  - (b) a return of capital in preference to holders of ordinary securities if the entity is wound up or ended; and
  - (c) the same rights as a holder of an ordinary security in relation to receiving notices, reports and audited accounts, and attending meetings.

#### **Specific Options Requirements**

- 4.12 The exercise price for each underlying security on the exercise of an option must be at least 20 cents in cash.
- 4.13 Options issued by an entity with the same expiry date must have the same terms.
- 4.14 The terms of an option must allow the rights of the option holder to be changed to comply with the Listing Rules applying to a reorganisation of capital at the time of the reorganisation.
- 4.15 An option must not be exercisable over a percentage of an entity's capital.

#### **Timetables**

- 4.16 An entity must comply with Annexure 4A.