

# **FINCLEAR SERVICES DISCLOSURE STATEMENT**

to clients of **WILSONS ADVISORY AND STOCKBROKING LIMITED**  
ABN 68 010 529 665 AFSL No. 238374 (BROKER)

**TERMS OF YOUR AGREEMENT WITH FINCLEAR SERVICES PTY LTD**  
ABN 60 136 184 962 AFSL No 338264 (FINCLEAR SERVICES)

## **1. Your clearing arrangements with FinClear Services**

FinClear Services is admitted as a Clearing Participant in accordance with the ASX Clear Rules.

Whenever you place an Order with the Broker (as your agent) to purchase or sell Traded Products by means of a Transaction, you are immediately deemed to have entered into an agreement with FinClear Services on the terms and conditions set out below in this Disclosure Statement (**Terms and Conditions**). By placing an Order with the Broker, you accept and agree to be bound by these Terms and Conditions.

If you effect a Transaction through the Broker, FinClear Services carries the clearing obligations and any settlement obligations (together, **Settlement Obligations**) for all Transactions effected through the Broker (including those effected by the Broker on your behalf) and FinClear Services must settle as principal with ASX Clear or the relevant counter-party, even though the Transaction may have been entered into on your behalf. Your clearing obligations and any settlement obligations are therefore owed directly to FinClear Services (and not the Broker).

In the event that you fail to complete a contract in accordance with the ASX Clear Rules or fail to pay the amounts due in respect of a Transaction, FinClear Services has direct rights against you, including rights of sale under the Exchange Rules and ASX Clear Rules and those described in these Terms and Conditions.

## **2. Conduct of Business**

You acknowledge and agree:

- (a) to comply with these Terms and Conditions, all applicable laws, the Exchange Rules, ASX Clear Rules and ASX Settlement Rules and the directions, decisions and requirements of each Relevant Exchange and the customs and usages of the Market. Upon request, you are able to inspect copies of the Exchange Rules, ASX Clear Rules and ASX Settlement Rules at the Broker's offices; and
- (b) that all Transactions are subject to the Exchange Rules, ASX Clear Rules, the directions, decisions and requirements of the Relevant Exchange and the customs and usages of the Market, the correction of errors and omissions and, if the sale or purchase is in relation to CS Approved Products, the ASX Settlement Rules.

## **3. FinClear Services' right to require the Broker to refuse to accept Orders**

You acknowledge that FinClear Services may at any time in its absolute discretion direct the Broker to:

- (a) refuse to accept you as a client or not to accept Orders from, or execute Orders for you; or
- (b) refuse to accept a particular Order from you.

## **4. Purchases and Sales**

You must ensure that payment in full is received by FinClear Services (and not the Broker) before the Settlement Date and Time. FinClear Services will not accept payment in cash. In accordance with the provisions of the Corporations Act, and the regulations made under the Corporations Act, pending settlement by you, these Terms and Conditions and the relevant Confirmation (if any) constitutes notice to you that FinClear Services may deposit the Traded Products purchased for you in a particular transaction as security for a loan if FinClear Services has received and paid for such Traded Products on your behalf.

You must deliver to FinClear Services (and not the Broker) all documents and security holder information (including the holder identification number or personal identification number and, if applicable, holder reference number) (**Security Holder Information**) no later than **two business days** before the Settlement Date and Time.

All documentation and Security Holder Information must be sent to:

**FinClear Services Pty Ltd**  
GPO Box 5343  
Sydney NSW 2001

If you have entered into a Sponsorship Agreement with either FinClear Services or the Broker, you will be taken to have satisfied this obligation if you ensure that sufficient Traded Products are held in your Sponsored Holding with FinClear Services or the Broker (as the case may be), those Traded Products are unencumbered and, if the consent of any third party is required before FinClear Services or

the Broker (as the case may be) may withdraw those Traded Products, that consent has been obtained and communicated to FinClear Services.

You irrevocably authorise FinClear Services to apply any Traded Products held in your Participant Sponsored Holding to satisfy your Settlement Obligations arising from any Transaction executed by the Broker on your behalf.

Credits in respect of sales are not available until the latest of:

- (a) the Settlement Date and Time;
- (b) when all documents and Security Holder Information have been received by FinClear Services in deliverable form; and
- (c) all amounts due and payable by you to FinClear Services or the Broker have been paid.

Unless FinClear Services has agreed alternative arrangements with you, FinClear Services will pay all sale proceeds directly to you.

## **5. Misdirected Market Transactions**

If at any time Transactions executed by the Broker are also to be cleared through a Clearing Participant (other than FinClear Services), you acknowledge that:

- (a) the Broker may, incorrectly or otherwise, direct a Transaction which it has executed on your behalf to a Clearing Participant other than FinClear Services (**Misdirected Market Transaction**);
- (b) FinClear Services does not have any Settlement Obligations in respect of any Misdirected Market Transaction; and
- (c) FinClear Services will not provide you with a confirmation in respect any Misdirected Market Transaction.

## **6. Short sales**

A "short sale" is when Traded Products are sold on your behalf, or you place an Order with the Broker to sell Traded Products, at a time when you do not have a presently exercisable and unconditional right to vest the Traded Products in a buyer. Under section 1020B(2) of the Corporations Act, you are prohibited from effecting a short sale unless you are able to rely on an exemption from that prohibition provided in the Corporations Act, *Corporations Regulations 2001* (Cth) or provided by way of ASIC class order relief or other current and effective relief granted by ASIC. You must not place an Order for a short sale with the Broker unless you are able to rely on such an exemption. For the avoidance of doubt, you are able to rely on such an exemption where the circumstances of your Order are such that you are able to satisfy all conditions of any one or more exemptions to the prohibition on short selling.

## **7. No Advice**

You acknowledge that FinClear Services does not provide financial product advice or owe any fiduciary duty to you, nor does it accept responsibility for any financial product advice given to you by the Broker. You must not represent to any person that FinClear Services has given any financial product advice to you.

## **8. Settlement Date and Time**

The "**Settlement Date and Time**" for sales or purchases is the date and time that is specified on the front of the relevant Confirmation. If no date and time are specified or no Confirmation is required to be given, the Settlement Date and Time is 9.00am (Sydney time) on the second Business Day after the execution of the Transaction. The Broker has no authority to extend the Settlement Date and Time.

## **9. Warranties by the client**

You represent and warrant that before placing any Order with the Broker:

- (a) you will be in a position to pay for any Traded Products purchased and have a presently exercisable and unconditional right to vest any Traded Products sold in the buyer, to enable settlement at the Settlement Date and Time;
- (b) if your Order relates to the purchase of a Partly Paid Security (as defined in the Market Integrity Rules), you have made arrangements (to FinClear Services' satisfaction) to pay to FinClear Services a sufficient amount to cover any liability arising from all possible future calls in respect of the Partly Paid Securities; and
- (c) you will not place an Order for an AQUA Product unless you have received and read the Product Disclosure Statement relating to the product and the ASX Fact Sheet in relation to the ASX Managed Fund Settlement Service.

## **10. Settlement using BPAY facility**

If you would like to make payment from your cheque or savings account by BPAY, please make arrangements with your participating financial institution. Please quote the Biller Code and your BPAY reference number (see the front page of the relevant Confirmation (if any)).

## **11. Confirmations**

You will be given confirmations as required by the Corporations Act and the Market Integrity Rules (**Confirmations**).

You authorise FinClear Services (on behalf of the Broker) to give Confirmations to you electronically to the email address notified to FinClear Services by the Broker on your behalf from time to time for this purpose. FinClear Services may not provide you with paper copies of Confirmations.

You agree to promptly check the accuracy of every Confirmation sent to you and to notify the Broker immediately of any error that you consider may have occurred. In the absence of such notification from you within 24 hours, you will be taken to have accepted the accuracy of the Confirmation.

A Confirmation may at any time be re-issued to you in order to correct any errors or omissions and the terms and conditions of the original Confirmation will apply in relation to the reissued Confirmation.

Where the Broker enters into multiple Transactions in order to complete your Order (whether on one or more Relevant Exchanges), you authorise FinClear Services on behalf of the Broker to accumulate those Transactions on a single Confirmation and to specify the volume weighted average price for those Transactions on that Confirmation. If requested by you, the Broker will, if required under the Market Integrity Rules, give you a statement of all the individual prices of the relevant transactions which are accumulated and averaged in a Confirmation.

If you are a Wholesale Client for the purposes of the Market Integrity Rules, the Broker may elect not to give any Confirmations to you in relation to Transactions executed for you. If the Broker so elects, these Terms and Conditions are taken to be the notification required to be given by the Broker to you under the Market Integrity Rules.

#### **12. Failure to Settle**

You acknowledge that, if you fail to make any payment due to FinClear Services or deliver any documents or Security Holder Information to FinClear Services or otherwise comply with the Settlement Obligations that you owe to FinClear Services in relation to a Transaction in accordance with these Terms and Conditions or the relevant Confirmation, if any (**fail to settle**), FinClear Services may do any one or more of the following:

- (a) charge an administration fee calculated by reference to the additional cost which may be incurred by FinClear Services or the Broker (including any fail fees imposed by a Relevant Exchange or ASX Clear) as a result of your failure to settle;
- (b) levy a default charge on the amount from time to time outstanding at a rate of up to 15.0% per annum;
- (c) sell out (or procure the sell out of) any Traded Products purchased (and you are fully responsible for any loss in connection with such sale) and apply the proceeds in reduction of your liability to FinClear Services and to recover FinClear Services' costs in so acting;
- (d) buy in (or procure the buy in of) any Traded Products sold (and you are fully responsible for any loss in connection with such purchase) and recover FinClear Services' costs in so acting;
- (e) sell out (or procure the sell out of) any Traded Products otherwise held on your behalf (and you are fully responsible for any loss in connection with such sale) and apply the proceeds in reduction of your liability to FinClear Services and to recover FinClear Services' costs in so acting;
- (f) apply any cash held by FinClear Services or a related body corporate of FinClear Services or the Broker on your account or to which they have access, or payments received for or from you in reduction of your liability to FinClear Services; or
- (g) instruct the Broker to cancel any of your unexecuted Orders, and you authorise FinClear Services and each of its directors and employees as your attorney to give instructions on your behalf in respect of your Traded Product holdings sponsored by FinClear Services or the Broker (or a related body corporate of either them) in CHESS, or held by a related body corporate of either of them in nominee holdings, and in respect of call deposit facilities or cash management trust accounts on which either FinClear Services or the Broker is authorised to give instructions, to enable FinClear Services to realise those Traded Products or funds and apply the proceeds in reduction of your liability to FinClear Services and to recover FinClear Services' costs in so acting.

If you fail to settle, FinClear Services may make arrangements on your behalf to ensure that your Settlement Obligations are performed (including by buying-in or borrowing the relevant Traded Products).

If you have not met your settlement obligations owed to FinClear Services in respect of a Transaction executed for you by the Broker by the date which is 4 Business Days after the Settlement Date and Time, it is FinClear Services' policy (and FinClear Services may be obliged under the ASX Settlement Rules), without any notice to you (but without limiting FinClear Services' discretion to take any actions):

- (a) in the case of a purchase, to execute a Transaction to close out the failed purchase (by selling the relevant Traded Products); or
- (b) in the case of a sale, to execute a Transaction to close out the failed sale (by buying-in the relevant Traded Products), and recover any resulting loss from you.

You must pay or reimburse FinClear Services any such administration fees and default charges (together with any GST payable on those amounts) immediately upon demand or at FinClear Services' option it may deduct such administration fees and default charges (and any GST) from any sale proceeds or other amounts otherwise payable to you.

The manner in which FinClear Services may exercise or not exercise, or the timing of or any delay in any exercise by FinClear Services of, any right of FinClear Services under this clause is not to be taken to be financial product advice by FinClear Services to you, and you must not represent to any person that it is financial product advice by FinClear Services.

FinClear Services will not be liable to you for any failure by FinClear Services to exercise (or any delay in the exercise by FinClear Services of) any right FinClear Services may have against you, or any loss incurred by you as a result of FinClear Services not exercising any of its rights against you immediately, or at all, following any failure by you to comply with your obligations.

The rights described in this clause 12 are in addition to any rights that are conferred to FinClear Services under the Exchange Rules and the ASX Clear Rules.

#### **13. Cancellations**

Each Relevant Exchange has the power under the Exchange Rules to cancel or amend Transactions or Crossings. You authorise FinClear Services to, and agree that FinClear Services may, without your consent, cancel or amend (or request or agree to the cancellation or amendment of) any Transactions or Crossing relating to the sale or purchase (as the case may be) of Traded Products:

- (a) if requested to do so by the Broker in accordance with the Exchange Rules;
- (b) if a Relevant Exchange or a participant of the Relevant Exchange exercises its power under the Exchange Rules to cancel or amend (or require the cancellation or amendment of) the Transaction or Crossing; or
- (c) in the event of an Error or otherwise in the circumstances contemplated in the Exchange Rules.

Your obligations referred to in clause 4, and FinClear Services' obligations in relation to the settlement of a Transaction, will no longer apply in respect of a cancelled transaction from the time it is cancelled or, in the case of an amended Transaction, apply as amended.

#### **14. Interest on FinClear Services' trust account**

You acknowledge that FinClear Services will retain the interest (if any) earned on monies held in its trust account from time to time.

#### **15. Assignment to the Broker of debts owed by you to FinClear Services**

If you have not paid any debt to FinClear Services, you acknowledge that FinClear Services may (by notice to you and the Broker) assign that debt to the Broker and the assigned debt will become an obligation of yours owed to the Broker. In the event of such an assignment, the Broker (and each of its directors and employees) will have the rights and powers (and may do all the things) set out in clause 12 as if a reference to FinClear Services were a reference to the Broker.

#### **16. Instructions and other communications to be given via the Broker**

You acknowledge and agree that all communications given by you (including to provide instructions in respect of transactions in respect of Traded Products) are to be given by you to the Broker (such communications to be given in the form and manner agreed with the Broker from time to time) and the Broker will (as your agent) pass on your communication to FinClear Services.

#### **17. Instructions by fax or e-mail**

You acknowledge and agree that:

- (a) you are and will at all relevant times be authorised to make communications to the Broker (who will pass on those communications to FinClear Services on your behalf) (including as the case may be, to give instructions in respect of transactions in respect of Traded Products) by email and fax;
- (b) communication by email and/or fax is not a secure means of communication and involves higher risks of distortion, manipulation and attempted fraud;
- (c) fax communications may be of poor quality or unclear;
- (d) you authorise the Broker and FinClear Services to accept and act without any inquiry upon, communications (including instructions) provided by email and/or fax which appear to the

Broker or FinClear Services to have been provided by or for you; and

- (e) you indemnify the Broker and FinClear Services in respect of any and all claims, liabilities, direct or consequential losses, costs, charges or expenses (of any nature) incurred or suffered by the Broker or FinClear Services as a result of the Broker or FinClear Services acting on communications (including instructions) provided by email and/or fax.

#### 18. Indemnity

You must, to the maximum extent permitted by law, at all times and from time to time, indemnify and keep each of FinClear Services and its related bodies corporate and any of their respective directors, officers, contractors, agents and employees (each an **Indemnified Person**) harmless from and against all liabilities, losses, damages, costs or expenses directly or indirectly suffered by the Indemnified Person and from and against all actions, proceedings, claims or damages made against the Indemnified Person as a result of:

- (a) any transaction entered into by the Broker on your behalf;
- (b) any failure by you to settle;
- (c) any other breach by you of these Terms and Conditions;
- (d) any breach by you of any other agreement with FinClear Services;
- (e) any breach by you of any representation or warranty made or taken to have been made by you (including without limitation in relation to any disclosure to be made in respect of sale Orders) not being true or correct,

other than to the extent that the loss has resulted from FinClear Services' negligence, wilful default or fraud.

#### 19. Credit references

You agree that FinClear Services may make such enquiries as it thinks fit of any person, including your employer, your bank or a credit agency relating to your creditworthiness.

#### 20. Information

You warrant that all information provided by you to the Broker or FinClear Services is, or will be when given, accurate, true and correct and further agree to immediately notify FinClear Services in writing upon becoming aware that such information is no longer accurate, true and correct. You agree that FinClear Services and the Broker may share such information, as well as your account details and information regarding your transactions in Traded Products with each other and with FinClear Services' related bodies corporate on a confidential basis as FinClear Services considers appropriate. You also consent to FinClear Services and/or the Broker disclosing this information and your account details to any regulatory authority, and consent to FinClear Services and/or the Broker using such information and your account details for the purposes of monitoring compliance by you, the Broker and/or FinClear Services with their respective regulatory and contractual obligations, and resolving disputes. Your personal information may be disclosed to credit checking agencies as permitted by law. You may request access to the personal information that FinClear Services holds about you.

#### 21. Complaints

You have a right to complain about any aspect of your dealings with FinClear Services, and to have that complaint dealt with in accordance with FinClear Services' complaint resolution procedures. A summary of those procedures is set out below.

However, if your complaint relates to services provided by the Broker, your complaint should be dealt with in accordance with the Broker's complaint resolution procedures. If you have such a complaint please contact the Broker.

You have the right to have any complaint about the service you have received from FinClear Services, or any other aspects of your dealings with FinClear Services, investigated and dealt with as quickly as possible in accordance with FinClear Services' complaints resolution procedure.

To assist FinClear Services to respond appropriately to complaints, you are asked to set out complaints in writing, addressed to the Head of Compliance. You should include as much detail about the circumstances of your complaint as possible, including the name(s) of any FinClear Services staff involved. If available, copies of any background documentation should also be provided.

Following receipt of your complaint, the Head of Compliance will acknowledge receipt of it in writing and provide an estimate of the time it will take to investigate the circumstances. The Head of Compliance will fully investigate your complaint and follow up if further information is required from you. The Head of Compliance will then prepare a detailed written response to you after consideration of all relevant documents and following interviews with the involved employees and their manager(s), if required. The written response will be mailed or delivered to you.

As FinClear Services is a member of the Australian Financial Complaints Authority (**AFCA**), FinClear Services will advise you if you

continue to have a complaint that you have the option to pursue your complaint with AFCA. AFCA's contact details are:

**Australian Financial Complaints Authority**  
**GPO Box 3**  
**Melbourne VIC 3001**  
**Telephone 1800 931 678**  
**Web [www.afca.org.au](http://www.afca.org.au)**

If you are not satisfied with the response to your complaint, you may wish to pursue the matter with a Relevant Exchange. Alternatively, ASIC also has a free call Infoline on 1300 300 630 which you may use to make a complaint and obtain information about your rights.

#### 22. Compensation arrangements

As FinClear Services is a Participant of one or more Relevant Exchanges, you may be entitled to make a claim on a compensation fund (such as the National Guarantee Fund (**NGF**) or the Chi-X Fidelity Fund) in the circumstances specified under Part 7.5 of the Corporations Act and the *Corporations Regulations 2001* (Cth). For more information on the circumstances in which you may make a claim or for information about compensation arrangements generally, contact the Securities Exchange Guarantee Corporation Limited ABN 19 008 626 793 (in relation to queries about the NGF) or in relation to another Relevant Exchange, that Relevant Exchange.

FinClear Services has professional indemnity insurance which FinClear Services considers is adequate having regard to:

- (a) the volume and types of business carried on by it; the number and types of its clients; the number of its representatives; and
- (b) any particular or potential claims that may arise pursuant to our participation in external dispute resolution schemes, including the AFCA scheme.

FinClear Services considers that these compensation arrangements satisfy the requirements of s 912B of the Corporations Act and associated regulations.

#### 23. Sponsorship

If you are not currently sponsored by FinClear Services or the Broker, FinClear Services recommends that you enter into a Sponsorship Agreement with FinClear Services or the Broker to enable easy transfer of your Traded Products under CHES.

#### 24. Joint Holder

If you are a joint holder, these Terms and Conditions bind each person jointly and severally, and each person is authorised to issue instructions to the Broker and give receipts to FinClear Services in relation to any purchase or sale of Traded Products or other matters to which these Terms and Conditions relate.

#### 25. Amendment

These Terms and Conditions may be amended from time to time. FinClear Services will give you 10 days notice of any amendment, after which time, the amendment will become effective.

#### 26. Governing law

These Terms and Conditions are governed by the law in force in New South Wales and you and FinClear Services submit to the non-exclusive jurisdiction of the courts of New South Wales and courts which may hear appeals from those courts.

#### 27. Interpretation

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited ABN 98 008 624 691

**ASX Clear** means ASX Clear Pty Limited ABN 48 001 314 503, a wholly owned subsidiary of ASX.

**ASX Clear Rules** means the operating rules of ASX Clear as amended from time to time.

**ASIC Market Integrity Rules** means the *ASIC Market Integrity Rules (Securities Markets) 2017* as amended from time to time.

**ASX Settlement** means ASX Settlement Pty Ltd ABN 49 008 504 532.

**ASX Settlement Rules** means the operating rules of ASX Settlement as amended from time to time.

**CHES** means the **Clearing House Electronic Subregister System**

**Chi-X** means Chi-X Australia Pty Ltd ABN 47 129 584 667

**Chi-X Operating Rules** means the operating rules of Chi-X as amended from time to time.

**Confirmation** has the meaning given to it in clause 11.

**Corporations Act** means the *Corporations Act 2001* (Cth)

**Clearing Participant** has the meaning given to it in the ASX Market Integrity Rules.

**Crossing** has the meaning given to it in the Market Integrity Rules.

**Error** has the meaning given to it in the Exchange Rules and in relation to Chi-X, has the meaning given to "error trade" in the Chi-X Operating Rules, and has the meaning of any equivalent term in any other Exchange Rules including without limitation "error" or "trade error".

**Exchange Rules** means the operating rules of each Relevant Exchange and the Market Integrity Rules.

**Market** means the market operated by the Market Operator under the Market Integrity Rules.

**Market Integrity Rules** means any market integrity rules made by ASIC in accordance with Part 7.2A of the Corporations Act, as amended from time to time, that apply to a Relevant Exchange, including, without limitation, the ASIC Market Integrity Rules.

**NSX** means National Stock Exchange of Australia Limited ABN 11 000 902 063.

**Order** means an order or instruction for the sale, purchase, issue or redemption of Traded Products to be executed or facilitated by FinClear Services.

**Participant Sponsored Holding** has the meaning given to it in the ASX Settlement Rules.

**Relevant Exchange** means ASX or Chi-X or NSX and, without limitation, any other exchange on which FinClear Services transacts Orders, or the financial markets operated by them (as the context requires).

**Traded Products** has the meaning given to Cash Market Products in the ASIC Market Integrity Rules (and includes an AQUA Product) and for other Relevant Exchanges, means the cash equities products (excluding derivatives) admitted for quotation on the relevant market as described in the relevant Exchange Rules or Market Integrity Rules (as the context requires) for that Relevant Exchange.

**Trading Participant** has the meaning given to that term in the ASIC Market Integrity Rules.

**Transaction** has the meaning given to Cash Market Transaction in the ASIC Market Integrity Rules and for other Relevant Exchanges, has the meaning given to transaction in cash equities products (excluding derivatives) admitted for quotation on the relevant market as described in the relevant Exchange Rules or Market Integrity Rules (as the context requires) for that Relevant Exchange.

**You** means the person or persons in whose name the account is opened with the Broker or named on the account opening or application form as the client. If that is more than one person, "you" means each of them separately and every two or more of them jointly. "You" includes your successors and assigns.

Words expressed in the singular include the plural and vice versa. Unless the context otherwise requires, a reference to a document or agreement includes any variation or replacement of it and a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision. Words used in this document have the meanings given to them in the Exchange Rules, ASX Clear Rules or ASX Settlement Rules. If you require a copy of these definitions please contact the Broker.

You agree that in the event of any inconsistency between this document and any applicable laws, the Exchange Rules, ASX Clear Rules or ASX Settlement Rules, the latter will prevail to the extent of the inconsistency. You acknowledge that this document is not exhaustive and agree to be bound by other policies and procedures which concern the operations of your account with the Broker as notified to you from time to time.

**FinClear Services Pty Ltd**

**A Participant of ASX Group and Chi-X**

**ABN 60 136 184 962**

**AFSL 338264**

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