

## 112A. Interpretation

(1) In this Part, unless the contrary intention appears —

“**broker**” means a person who is a member of a prescribed stock exchange;

“**corresponding broker**” means a broker (other than a WA broker) to whom provisions in a corresponding law which correspond with sections 112FB and 112FC apply —

- (a) who has nominated a declared State to be that broker’s home State pursuant to the Articles of the Australian Stock Exchange Limited; or
- (b) whose principal place of business is located in another State or a Territory of the Commonwealth prescribed for the purposes of this paragraph;

“**corresponding law**” means a law in force in a State other than this State or in a Territory of the Commonwealth that is declared by proclamation to be a corresponding law for the purposes of Division 3;

“**dealer**” means a WA broker or a corresponding broker;

“**declared State**” means a State or a Territory of the Commonwealth declared by order to be a declared State for the purposes of Division 3;

“**error transaction**” means —

- (a) an SCH-regulated transfer made to reverse an SCH-regulated transfer that was made mistakenly; and
- (b) the SCH-regulated transfer so reversed;

“**exchange traded option**” means an option to purchase or sell a marketable security if the marketable security is listed for quotation on the stock market of, or permission to deal in the shares on a stock market has been granted by, a prescribed stock exchange but does not include any such option prescribed as not being an exchange traded option within the meaning of this Act;

“**identification code**” has the same definition as in section 1097(1) of the Corporations Law;

“**odd lot**” means a parcel of marketable securities or rights in respect of shares that is, under the rules of the stock exchange on which the sale or purchase is effected, required to be bought or sold through an odd lot specialist;

“**odd lot specialist**” means a broker who is approved by the Commissioner on the recommendation of a prescribed stock exchange of which the broker is a member as an odd lot specialist for the purposes of Division 3;

“**overseas transfer**” means the transfer of a share of a WA company, or a right in respect of shares of a WA company, where —

- (a) the share or right is listed on a stock exchange situated outside Australia;
- (b) the share or right is registered on a branch register of the WA company outside Australia; and
- (c) duty has not been paid in respect of the transfer;

“**prescribed stock exchange**” means —

- (a) the Australian Stock Exchange Limited;
- (b) any other stock exchange prescribed as a stock exchange for the purposes of this Act;

**“proper SCH transfer”** has the same definition as in section 9 of the Corporations Law;

**“relevant company”** means —

- (a) a WA company; or
- (b) a foreign company with a registered office under the Corporations Law that is situated in this State;

**“relevant SCH participant”**, in relation to an SCH-regulated transfer, means —

- (a) the SCH participant who is a party to the transfer; or
- (b) if there is more than one SCH participant, the SCH participant who is the transferee or who controls the transferee’s holding;

**“SCH”** means the securities clearing house registered by the Commissioner under Division 5;

**“SCH business rules”** has the same definition as in section 9 of the Corporations Law;

**“SCH participant”** has the same definition as in section 9 of the Corporations Law;

**“SCH-regulated transfer”** has the same definition as in section 9 of the Corporations Law;

**“transfer document”** has the same definition as in section 1097(1) of the Corporations Law;

**“transfer identifier”**, in relation to an SCH-regulated transfer, means the distinctive code assigned to the transfer as required by SCH;

**“transfer value”** means —

- (a) in the case of a transfer on sale — the amount or value of total consideration for the sale or the unencumbered value of the marketable security or right in respect of shares transferred at the date of the sale, whichever is the greater; or
- (b) in any other case — the unencumbered value of the marketable security or right at the date of the transfer;

**“WA broker”** means a broker —

- (a) who has nominated Western Australia as that broker’s home State under the Articles of the Australian Stock Exchange Limited; or
- (b) in any other case (other than the case of a broker who has nominated a declared State to be that broker’s home State under those Articles) — whose principal place of business is located in Western Australia.

(2) For the purposes of this Part and of item 4A of the Second Schedule —

- (a) a marketable security that is sold or purchased is, subject to subsection (3), short-dated if on the day of its sale or purchase —
  - (i) having been issued for a fixed term which has not expired, it is, at or after the expiration of that term, repayable less than 24 months after its sale or purchase without notice or at the

- request of the purchaser, or subsequent holder, of the marketable security;
- (ii) having been issued for a fixed term which has expired, it is repayable without notice but has not been repaid; or
  - (iii) having been issued for a fixed term which has expired or not having been issued for a fixed term, it is repayable at the request of the purchaser, or subsequent holder, of the marketable security;
- (b) **“fixed term”** in relation to a marketable security, means the period commencing on the day of its issue and ending on the day specified in the terms of its issue as the day on which it matures or, if there is more than one such day specified in the terms of its issue, the last such day;
- (c) a marketable security that is repayable at the request of its holder shall be deemed to be repayable at the expiration of the period, if any, during which the person liable to repay would be entitled to delay repayment if the holder of the marketable security requested repayment or, if there is no such period, on the day of request; and
- (d) a marketable security that is short-dated as referred to in paragraph (a)(ii), or a marketable security that, having been issued for a fixed term which has expired or not having been issued for a fixed term, is repayable forthwith upon the request of the purchaser, or subsequent holder, of the marketable security shall be deemed to be repayable one month after its sale or purchase.
- (3) The Minister may, by instrument in writing published in the *Government Gazette*, declare that a class of marketable security is not short-dated for the purposes of this Part and item 4A of the Second Schedule.

*[Section 112A inserted by No. 39 of 1994 s.10; amended by No. 20 of 1996 s.38; No. 13 of 1997 ss.23 and 25.]*