# Australian Financial Services Licence

LONSFORD INSURANCE BROKERS PTY. LTD.

ABN: 68 007 329 366 Licence No: 241390

is hereby licensed as an Australian Financial Services Licensee pursuant to section 913B of the Corporations Act 2001 subject to the conditions and restrictions which are prescribed, and to the conditions contained in this licence and attached schedules.

Effective 1 March 2004

## Authorisation

1. This licence authorises the licensee to carry on a financial services business to:
   (a) provide financial product advice for the following classes of financial products:
      (i) general insurance products; and
   (b) deal in a financial product by:
      (i) applying for, acquiring, varying or disposing of a financial product on behalf of another person in respect of the following classes of products:
         (A) general insurance products;

to retail and wholesale clients.

ASIC

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Schedule of Conditions

**Authority to use Broker Terms**

2. The licensee:

   (a) is authorised to assume or use the following expression(s) or any other like word or expression (whether or not in English) that is of like import to that expression:

      (i) **General Insurance Broker;** or

      (ii) **Insurance Broker or Insurance Broking;**

      only while the licensee continues to meet the eligibility requirements under section 923B(3) of the Act and ASIC would be able, under section 923B of the Act, to impose a condition authorising its assumption or use; and

   (b) must notify ASIC within 10 business days of any matter which would prevent:

      (i) the licensee from meeting the eligibility requirements under section 923B(3) of the Act; or

      (ii) ASIC from imposing a condition authorising the licensee to use the expression(s) set out in paragraph (a) above under section 923B(3) of the Act.

**Compliance Measures to ensure Compliance with Law and Licence**

3. The licensee must establish and maintain compliance measures that ensure, as far as is reasonably practicable, that the licensee complies with the provisions of the financial services laws.

**Training Requirements for Representatives**

4. The licensee must, in accordance with the compliance dates set out in Table 2 of ASIC Policy Statement 146 (as at the date of this licence), for any natural person who provides financial product advice to retail clients on behalf of the licensee (including the licensee if he or she is a natural person):

   (a) identify the tasks and functions that person performs on behalf of the licensee; and

   (b) determine the appropriate knowledge and skills requirements required to competently perform those tasks and functions; and

   (c) implement procedures for continuing training.

5. The licensee must, in accordance with the compliance dates set out in Table 2 of ASIC Policy Statement 146 (as at the date of this licence), ensure that any natural person who provides financial product advice to retail clients on behalf of the licensee (including the licensee if he or she is a natural person):

   (a) has completed training courses at an appropriate level that are or have been listed on the ASIC Training Register that are relevant to those functions and tasks; or

   (b) has been individually assessed as competent by an assessor that is or has been listed on the ASIC Training Register; or

   (c) in respect of financial product advice on basic deposit products and facilities for making non-cash payment products that is related to a basic deposit product, has completed training courses at an appropriate level that are relevant to those functions and tasks.

ASIC

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Schedule of Conditions

**Notification to Current or Former Representative's Clients**

6. Where, under Division 8 of Part 7.6 of the Act:
   (a) ASIC makes a banning order against a current or former representative of the licensee; or
   (b) the Court makes an order disqualifying a current or former representative of the licensee;

   the licensee must, if directed in writing by ASIC, take all reasonable steps to provide the following information in writing to each retail client to whom the representative had provided personal advice within the 3 years prior to the date of the banning order or disqualification order:
   (c) the name of the representative;
   (d) any authorised representative number allocated to the representative by ASIC;
   (e) the terms of the banning or disqualification order; and
   (f) contact details of the licensee for dealing with enquiries and complaints regarding the banning or disqualification or the conduct of the representative as a representative of the licensee.

**Financial Requirements for Market Participants**

7. Where the licensee is a market participant in the relevant market, conditions 8 to 14 (inclusive) do not apply to the licensee.

**Base Level Financial Requirements**

8. The licensee must:
   (a) be able to pay all its debts as and when they become due and payable; and
   (b) have total assets that exceed total liabilities, or adjusted assets that exceed adjusted liabilities, as shown in the licensee's most recent balance sheet (ie: Statement of Financial Position) lodged with ASIC; and
   (c) have no reason to suspect that both the licensee's total assets would not exceed its total liabilities and its adjusted assets would not exceed its adjusted liabilities on a current balance sheet (ie: Statement of Financial Position); and
   (d) meet the cash needs requirement by complying with either:
      (i) the reasonable estimate projection plus cash contingency basis ("Option 1"); or
      (ii) the contingency based projection basis ("Option 2"); or
      (iii) a requirement that an eligible provider being an APRA regulated entity or prudentially regulated entity in accordance with the Basel Committee Guidelines, gives the licensee an enforceable and unqualified commitment to pay an unlimited amount on demand to the licensee, the licensee's creditors or a trustee for the licensee's creditors, that will apply for at least three months, taking into account all commercial contingencies the licensee should reasonably plan for.



ASIC

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Schedule of Conditions

**Financial Requirements for Holding Client Money or Property**

9. If at any time the licensee:
   (a) is required to hold money in a separate account under Division 2 of Part 7.8 of the Act; or
   (b) holds money or other property on trust for a client or is required to do so under Regulation 7.8.07(2) of the Corporations Regulations or otherwise; or
   (c) has the power to dispose of a client's property under power of attorney or otherwise;

   the licensee must ensure that the licensee has at least $50,000 in surplus liquid funds ("SLF") unless the value of the money and property is less than $100,000 excluding:
   (d) money that has satisfied a client's liability on an insurance contract where the licensee is acting under a binder or section 985B of the Act applies, or property acquired by investment of that money; or
   (e) the value of property where the licensee merely holds a document of title, and the client has legal title to the property.

**Financial Requirements for Licensee's Transacting with Clients**

10. If the actual or contingent monetary liabilities that the licensee incurred in providing a financial service by entering into a transaction with a client(s), are equal to or greater than $100,000 in total excluding a liability or a contingent liability (that if crystallized would be in the calculation of adjusted liabilities) that:
   (a) is a contingent liability that is neither a derivative nor a liability from underwriting securities or managed investment products; or
   (b) the licensee reasonably estimates has a probability of less than 5% of becoming an actual liability; or
   (c) is covered by money or property that the licensee holds in a separate account under Part 7.8 of the Act or on trust for clients; or
   (d) is adequately secured;
   (e) is a liability incurred by entering into a transaction on a licensed market that is to be settled using a clearing and settlement facility, the operation of which is authorised by an Australian CS facility licence;
   (f) is under a foreign exchange contract and you are required to have $10 million of tier one capital under another condition of this licence because the licensee has entered a foreign exchange contract as principal;
   (g) is under a derivative where:
      (i) the licensee does not make a market in derivatives;
      (ii) the licensee entered into the dealing for the purposes of managing a financial risk;
      (iii) either the licensee's dealing in derivatives are not a significant part of its business or the business of it and its related bodies corporate taken together; and
      (iv) the licensee did not enter into the dealing on the instructions of another person; or
   (h) is under a foreign exchange contract where the licensee:
      (i) does not make a market in foreign exchange contracts;

ASIC

(ii) entered into the contract for the purposes of enabling a payment in one of the currencies under the foreign exchange contract; and

(iii) did not enter into the foreign exchange contract on the instruction of another person;

the licensee must have adjusted surplus liquid funds ("ASLF") of the sum of :

(i) $50,000; plus

(j) 5% of adjusted liabilities between $1 million and $100 million; plus

(k) 0.5% of adjusted liabilities for any amount of adjusted liabilities exceeding $100 million,

up to a maximum ASLF of $100 million.

In this condition, a reference to a client includes a person who acquires or disposes of financial products in a transaction that the licensee entered into at a price the licensee stated in the course of making a market.

**Reporting Triggers and Requirements for Financial Requirement Conditions of this Licence**

11. The licensee must ensure the reporting requirements under conditions 12 and 13 of this licence are met where either paragraph (a) or paragraph (b) applies:

(a) the trigger points described in paragraphs (i) and (ii) below occur:

(i) the licensee has adjusted liabilities of more than $1 million and less than or equal to $100 million; and

(ii) the licensee has an ASLF of less than 5.5% of adjusted liabilities;

(b) the trigger points described in paragraphs (i), (ii) and (iii) below occur:

(i) the licensee has adjusted liabilities of more than $100 million;

(ii) the licensee does not have $100 million ASLF; and

(iii) the licensee has an ASLF that is less than $500,000 above the minimum ASLF required under condition 10 of this licence

12. Where the licensee's ASLF is below the trigger points, the licensee must not enter into any transactions with clients that could give rise to further liabilities, contingent liabilities or other financial obligations until the licensee's board or governing body has certified in writing that, having conducted reasonable enquiry into its financial position, there is no reason to believe that the licensee will fail to comply with its obligations under section 912A of the Act.

13. Where the licensee's board or other governing body has made the certification required under condition 12, the licensee must ensure that the licensee's board or other governing body certifies in writing at least monthly that, having conducted reasonable enquiry into its financial position, there is no reason to believe that the licensee will fail to comply with its obligations under section 912A of the Act until the licensee's ASLF continuously exceeds the trigger point for a period exceeding one month.

14. The licensee must keep each certification issued by the licensee's board or other governing body under condition 12 and 13 of this licence for at least 5 years from the date of such certification. The licensee must provide ASIC with a copy of each certification within 3 business days of the date of each certification.

**Audit Opinion on Financial Requirements**

15. The licensee must lodge with ASIC an opinion by a registered company auditor ("the audit opinion") addressed to the licensee and ASIC for the following periods:

(a) for each financial year, at the same time the licensee is required to lodge a balance sheet (ie: Statement of Financial Position) under Part 7.8 of the Act; and

(b) for any period of time that ASIC requests, by the date ASIC requests the audit opinion to be lodged;

that states whether during:

(c) any part of the period for which the licensee:

(i) relied on being a market participant, on a positive assurance basis, the licensee was a participant in the market conducted by:

(A) ASX; or

(B) ASXF, that either:

(1) elected to comply with the risk based capital requirements under the operating rules of ASXF; or

(2) restricted its financial services business to participating in the market and incidental business supervised by ASXF; or

(C) SFE, that restricted its financial services business to participating in the market and incidental business supervised by SFE; and

(ii) relied on being a body regulated by APRA, on a positive assurance basis, the licensee was a body regulated by APRA; and

(d) any remaining part of the period:

(i) in the auditor's opinion, the licensee:

(A) complied with all the financial requirements under conditions 8 to 14 (inclusive) of this licence other than paragraph 8(d) of this licence, except for paragraph (e) of the definition of Option 1 under this licence if the licensee purports to comply with Option 1; and

(B) except for any period when subparagraph (d)(i)(D) of this condition applies, had at all times a projection (covering at least the following 3 months) that purports to, and appears on its face to comply with, paragraph (a) of the definition of Option 1 or paragraph (a) of the definition of Option 2 under this licence (depending on which option the licensee purports to be complying with); and

(C) except for any period when subparagraph (d)(i)(D) of this condition applies, correctly calculated the projections on the basis of the assumptions the licensee adopted for the projections described in subparagraph (d)(i)(B) of this condition; and

(D) for any period when the licensee relied on subparagraph 8(d)(iii) of this licence, has obtained from an Australian ADI or a foreign deposit-taking institution approved in writing by ASIC as an eligible provider an enforceable and unqualified commitment (applying for at least the following 3 months) to pay an unlimited amount, or, up to the amount that the licensee may from time to time be liable, taking into account all commercial contingencies the licensee should plan for, on demand to the licensee, the licensee's creditors or a trustee for the licensee's creditors;

(ii) except for any period when subparagraph (d)(i)(D) of this condition applies, following an examination of the documents the licensee relies on in complying with Option 1 or Option 2 as defined under this licence, the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) of the Act for managing the risk of having insufficient financial resources to comply with the conditions of this licence; or

(B) the licensee failed to comply with the cash needs requirement using either Option 1 or Option 2 as defined under this licence (as applicable) except for:

(1) paragraphs (a), (c) and (e) of the definition of Option 1 as defined under this licence; or

(2) paragraphs (a) and (c) of the definition of Option 2 as defined under this licence; or

(C) if the licensee relied on Option 1 as defined under this licence, the assumptions the licensee adopted for its projection were unreasonable; or

(D) if the licensee relied on Option 2 as defined under this licence, the basis for the selection of assumptions to meet the requirements for its projection adopted was unreasonable; and

(iii) for any period when subparagraph (d)(i)(D) of this condition applies, following an examination of the documented assumptions that the licensee relies on in forming the reasonable expectation referred to in subparagraph 8(d)(iii), the auditor has no reason to believe that:

(A) the licensee did not satisfy the requirements of paragraph 912A(1)(h) for managing the risk of having insufficient financial resources to comply with the conditions in this licence; and

(B) the basis for the selection of the assumptions adopted was unreasonable.

**External Disputes Resolution Requirements**

16. Where the licensee provides financial services to retail clients, the licensee must:

(a) subject to paragraph (b), be a member of one or more External Disputes Resolution Scheme(s) ("EDRS") which covers, or together cover, complaints made by retail clients in relation to the provision of all of the financial services authorised by this licence.

(b) paragraph (a) of this condition does not apply to the licensee at any time until 11 March 2004 to the extent that, at any time, there is no EDRS that has been in existence for at least 3 months, that covers complaints made by retail clients in relation to the provision of a financial service authorised by this licence.

17. Where the licensee ceases to be a member of any EDRS, the licensee must notify ASIC in writing within 3 business days:

(a) the date the licensee ceases membership of the EDRS(s);

(b) the reasons the licensee's membership of the EDRS(s) has ceased (including circumstances where the EDRS is no longer operating, failure by the licensee to renew their membership of the EDRS or where the EDRS has terminated the licensee's membership of the EDRS);

(c) details of the new EDRS(s) the licensee intends to or has joined (including the date the membership commences and the name of the EDRS); and

(d) details that provide confirmation that the licensee is covered by EDRS(s) covering complaints made by retail clients in relation to the provision of all of the financial services authorised by this licence.

**Prohibition to Operate Discretionary Portfolio Accounts**

18. The licensee must not operate discretionary portfolio accounts for a retail client.

**Retention of Financial Services Guides, Statements of Advice and material relating to personal advice**

19. Where the licensee provides financial product advice to retail clients, the licensee must ensure that copies (whether in material, electronic or other form) of the following documents are retained for at least the period specified:

(a) each FSG (including any supplementary FSG) given by or on behalf of the licensee, or by any authorised representative of the licensee while acting in that capacity - for a period commencing on the date of the FSG and continuing for at least 7 years from when the document was last provided to a person as a retail client;

(b) a record of the following matters relating to the provision of personal advice to a retail client (other than personal advice for which an SOA is not required or for which a record of the advice is kept in accordance with section 946B(3A) ):

(i) the client's relevant personal circumstances within the meaning of section 945A(1)(a)(i);

(ii) the inquiries made in relation to those personal circumstances within the meaning of section 945A(1)(a)(ii);

(iii) the consideration and investigation conducted in relation to the subject matter of the advice within the meaning of section 945A(1)(b); and

(iv) the advice, including reasons why advice was considered to be "appropriate" within the meaning of section 945A(1)(a) - (c)

for a period of at least 7 years from the date that the personal advice was provided;

(c) any SOA provided by or on behalf of the licensee, or by any authorised representative of the licensee while acting in that capacity - for a period of at least 7 years from the date the document was provided to the client.

20. The licensee must establish and maintain measures that ensure, as far as is reasonably practicable, that it and its representatives comply with their obligation to give clients an FSG as and when required under the Act. The licensee must keep records about how these measures are implemented and monitored.

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## Schedule of Conditions

### Terms and Definitions

In this licence references to sections, Parts and Divisions are references to provisions of the Act unless otherwise specified. Headings contained in this licence are for ease of reference only and do not effect interpretation. Terms used in this licence have the same meaning as is given to them in the Act and the following terms have the following meanings:

**adequately secured** means:

(a) secured by an enforceable charge over financial products (other than financial products issued by the licensee or its associate) if:

  (i) the financial products are:

    (A) regularly traded on:

      (1) a financial market (as defined in sub-section 767A(1) of the Act and disregarding sub-section 767A(2) of the Act) operated by a licensee other than the licensee or its associate that in the reasonable opinion of the licensee produces sufficiently reliable prices to assess the value of the security provided by the charge;

      (2) an ASIC-approved foreign exchange under ASIC Policy Statement 72 "Foreign securities prospectus relief" as at the date of this licence; or

      (3) a foreign market approved in writing for the purpose by ASIC; or

    (B) interests in a registered scheme for which withdrawal prices are regularly quoted by the responsible entity and the licensee believes on reasonable grounds that withdrawal may be effected within 5 business days; and

  (ii) the market value of these financial products equals not less than 120% of the particular amount owing or not less than 109% of the particular amount owing if the financial products are debt instruments; or

(b) secured by a registered first mortgage over real estate that has a fair market valuation at least equal to 120% of the amount owing; or

(c) owing from an eligible provider; or

(d) secured by an enforceable charge over amounts owing to another licensee which themselves are adequately secured.

**adjusted assets** means the value of total assets:

(a) minus excluded assets; and

(b) minus any receivable of the licensee if the licensee has excluded a liability from adjusted liabilities on the basis that there is an enforceable right of set off with that receivable; and

(c) minus the value of any assets that are encumbered as a security against liability to a person that provides a security bond to ASIC up to the amount of the bond; and

(d) minus the value of any assets that may be required to be applied to satisfy a liability under a credit facility that is made without recourse to the licensee to the extent that the liability is excluded from adjusted liabilities; and

ASIC

(e) plus the value of any eligible undertaking that is not an asset; and

(f) for calculating ASLF, plus the value of any assets of any trust (other than a registered scheme) of which the licensee is trustee except to the extent the value exceeds the sum of:

(i) the liabilities of the trust; and

(ii) any increase in the amount of ASLF that is a result of assets, liabilities and contingent liabilities of the trust for accounting purposes being included in calculating ASLF.

**adjusted liabilities** means total liabilities:

(a) minus any subordinated debt approved by ASIC; and

(b) minus any liability that is the subject of an enforceable right of set off if the corresponding receivable is excluded from adjusted assets; and

(c) minus any liability under a credit facility that is made without recourse to the licensee, to the extent that the assets to which recourse may be made under the credit facility are excluded from adjusted assets; and

(d) for calculating ASLF, plus liabilities of any trust (other than a registered scheme) of which the licensee is trustee.

**adjusted surplus liquid funds or ASLF** means surplus liquid funds minus the following adjustments or such other adjustments as ASIC may from time to time consent to in writing:

(a) the following amounts against the values used for assets:

(i) 8% for obligations to pay the licensee a certain sum maturing beyond 12 months unless the interest rate applicable is reset to reflect market interest rates at least annually; and

(ii) 16% for any assets other than:

(A) an obligation to pay the licensee a certain sum;

(B) a derivative;

(C) the rights to moneys held by another licensee in an account under section 981B of the Act; and

(D) property held in trust by another licensee under Division 3 of Part 7.8 of the Act; and

(b) 8% of the value (if applicable as affected by paragraph (a) of this definition) of assets that are amounts owing to the licensee except where the asset is:

(i) adequately secured; or

(ii) a right against a licensee in respect of money or property held by the licensee in the account under section 981B or that is secured by property held in trust under Division 3 of Part 7.8 of the Act; or

(iii) owing from a client in the ordinary course of its financial services business for financial products that the client has agreed to buy, if the money is required to be - and in the reasonable estimation of the licensee probably will be - paid no more than 5 business days after the client became liable; and

(c) the following amounts for contingent liabilities and contingent liabilities of any trust (other than a registered scheme) of which the licensee is trustee:

(i) 5% of any contingent liabilities that can be quantified under an underwriting or sub-underwriting of financial products (ie: an enforceable commitment) except during the 5 business days after the commitment is assumed or to the extent that the underwriter holds funds from persons seeking to acquire the financial products subject to the underwriting; and

(ii) 5% of the potential liability of any contingent liabilities that can be quantified under a derivative other than to the extent there is an offsetting position in:

(A) the "something else" for the purposes of paragraph 761D(1)(c) of the Act; and/or

(B) another derivative relating to that something else; and/or

(C) a thing that is so similar to the something else as to make the risk of net loss trivial;

except to the extent that the risk is trivial that they will become liabilities (or become liabilities to a greater extent than taken into account for the purposes of applying the adjustment) because of a change in the price or value of the something else; and

(iii) 20% of the potential liability of any contingent liabilities that can be quantified under a guarantee or indemnity; and

(d) the amounts that is the relevant percentage as set out in paragraphs (c)(ii) to (c)(iii) of this definition of the amounts that is the maximum amount that the licensee may be liable for in relation to a contingent liability referred to in paragraph (c)(ii) or (iii) of this definition where the maximum liability cannot be quantified disregarding any trivial risk that the amount may be higher; and

(e) where the licensee has agreed to sell an asset that it does not hold, the amount of the adjustment that would apply if it held that asset.

For paragraph (c) and (d) of this definition, a risk may be treated as trivial if the probability that this will occur is less than 5% in the reasonable and documented opinion of the licensee.

The amount of the adjustment for a contingent liability under paragraph (c)(i) or (c)(iii) of this definition may be reduced (as to 100% or less) by the amount that is the applicable percentage as set out in paragraphs (c)(i) and (iii) of this definition of the value of any assets that would be acquired in return for paying the contingent liability after making an adjustment if required by paragraphs (a) or (b) of this definition.

**discretionary portfolio account** means a facility, other than a registered scheme, for acquiring securities, old law securities options contracts, government stocks, debentures or bonds, or interests in managed investment schemes in trust for or on behalf of another person without the prior approval of that other person to acquiring that financial product.

**eligible provider** means:

(a) an Australian ADI; or

(b) an entity (other than a registered scheme of which the licensee or the licensee's associate is the responsible entity):

(i) whose ordinary shares are listed on a licensed market or an ASIC-approved foreign exchange under ASIC Policy Statement 72 "Foreign securities prospectus relief" as at the date of this licence that has net assets (excluding intangible assets) of:

(A) more than $50 million; or

(B) at least 4 times the amount of the commitment;
whichever is the greater, as shown in the most recent audited financial statements of the provider lodged with ASIC; and

(ii) that the licensee has no reason to believe no longer has net assets of at least that amount; or

(c) an Australian government (ie the Commonwealth or a State or Territory government) or a foreign government of an OECD country; or

(d) a foreign deposit-taking institution approved in writing by ASIC for this purpose; or

(e) a CS facility licensee; or

(f) an entity approved by ASIC in writing for this purpose.

**eligible undertaking** means the amount of a financial commitment (disregarding any part previously paid), provided by an eligible provider in the form of an undertaking to pay the amount of the financial commitment to the licensee, that:

(a) is an enforceable and unqualified obligation to pay on written demand by the licensee; and

(b) remains operative (even if, for example, the licensee ceases to hold an AFS licence) until ASIC consents in writing to the cancellation of the undertaking.

**excluded assets** means:

(a) intangible assets (ie: a non-monetary asset without physical substance); and

(b) except when allowed under paragraphs (f) or (g) of this definition, receivables from or assets owing from ("receivables"), or invested in, any person who:

(i) is an associate of the licensee; or

(ii) was an associate of the licensee at the time the liability was incurred or the investment was made; or

(iii) became liable to the licensee because of, or in connection with, the acquisition of interests in a managed investment scheme the licensee operates; and

(c) except when allowed under paragraph (h) of this definition, any:

(i) beneficial interest; or

(ii) interest in a managed investment scheme; or

(iii) superannuation product;

in respect of which the licensee or its associates may exercise any form of power or control; and

(d) except when allowed under paragraphs (f) or (g) of this definition or required to be included by paragraph (f) of the definition of adjusted assets in this licence, a receivable from the trustee of any trust in respect of which the licensee or its associate may exercise any form of power or control; and

(e) assets that secure any current or future liability of another person to the extent of that liability; and:

(f) despite paragraphs (b) and (d) of this definition, a receivable is not excluded to the extent that:

(i) it is adequately secured; or

(ii) the following apply:

(A) it is receivable as a result of a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis; and

(B) no part of the consideration in relation to the transaction is, in substance, directly or indirectly invested in the licensee; and

(C) the total value of such assets (before any discount is applied) is not more than 20% of the assets less liabilities of the licensee; and

(D) for the purposes of calculating ASLF, the amount is further discounted by 10% of the value after any adjustment required by paragraph (a) or (b) of the definition "adjusted surplus liquid funds" of the licence; or

(iii) the following apply:

(A) it is receivable from an insurance company that is a body regulated by APRA and results from a transaction entered into by the licensee in the ordinary course of its business on its standard commercial terms applicable to persons that are not associated with the licensee on an arm's length basis; and

(B) there is no reason to believe that any amount invested in the licensee would not have been invested if the transactions that caused the receivable had not taken place or were not at the time of the investment expected to take place; and

(C) there is no reason to believe that the recoverability of the receivable will materially depend on the value of an investment by any person in the licensee; and

(D) disregarding this subparagraph (f)(iii), the total value of the receivables under this subparagraph (f)(iii) before any discount is applied is not more than 60% of the adjusted liabilities of the licensee; or

(iv) ASIC consents in writing to the licensee treating the amount owing as not being an excluded asset; and

(g) despite paragraphs (b) and (d) of this definition, the licensee can include a receivable amount to the extent that it is owing by way of fees from, or under rights of reimbursement for expenditure by the licensee out of property of, a superannuation scheme, an IDPS or a registered scheme ("Scheme") to the extent that that receivable:

(i) exceeds amounts invested by the Scheme in or lent (other than by way of a deposit with an Australian ADI in the ordinary course of its banking business) directly or indirectly by the Scheme to the licensee, a body corporate the licensee controls, a body corporate that controls the licensee or a body corporate that the licensee's controller controls;

(ii) if the receivable for fees represents no more fees than are owing for the last 3 months; and

(iii) if the receivable is under rights of reimbursement for expenditure by the licensee, has not been receivable for more than 3 months; and

(h) despite paragraph (c) of this definition, the licensee does not have to exclude a managed investment product unless any part of the amount invested is, in substance, directly or indirectly, invested in the licensee.

**market participant** means:

(a) a participating organisation as defined in the operating rules of Australian Stock Exchange Limited ("ASX") who complies with the ASX's operating rules that relate to financial requirements, taking into account any waiver by ASX; or

(b) a participant in the relevant market conducted by ASX Futures Exchange Pty Ltd ("ASXF") that:

(i) has elected to comply with and does comply with the operating rules of ASXF that relate to financial requirements based on the NTA requirements under the operating rules of ASXF, taking into account any waiver by ASXF; and

(ii) restricts its financial services business to participating in the relevant market conducted by the ASXF and incidental business supervised by ASXF; or

(c) a participant in the relevant market conducted by the ASXF that has elected to comply with and does comply with the operating rules of ASXF that relate to financial requirements based on the risk based capital requirements, taking into account any waiver by ASXF; or

(d) a participant in the relevant market conducted by Sydney Futures Exchange Corporation Ltd ("SFE") that:

(i) restricts its financial services business to participating in the relevant market and incidental business supervised by SFE; and

(ii) complies with the SFE's operating rules that relate to financial requirements, taking into account any waiver by SFE.

**net tangible assets or NTA** means adjusted assets less any adjusted liabilities and must be calculated on the basis of assets and liabilities valued and recognised as they would appear if a balance sheet (ie: Statement of Financial Position) were made up for lodgement as part of a financial report under Chapter 2M of the Act at the time of calculation on the basis that the licensee is a reporting entity.

**old law securities options contracts** means "options contracts" as defined under section 9 in the Corporations Act immediately prior to 11 March 2002 which were "securities" as defined under section 92(1) of the Corporations Act immediately prior to 11 March 2002.

**Option 1** means the reasonable estimate projection plus cash contingency basis where the licensee is required to:

(a) prepare a projection of the licensee's cash flows over at least the next 3 months based on the licensee's reasonable estimate of what is likely to happen over this term; and

(b) document the licensee's calculations and assumptions, and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(c) update the projection of the licensee's cash flows when those cash flows cease to cover the next 3 months or if the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraph (d) of this definition; and

(d) demonstrate, based on the projection of the licensee's cash flows, that the licensee will have access when needed to enough financial resources to meet its liabilities over the projected term of at least 3 months, including any additional liabilities the licensee projects will be incurred during that term; and

(e) hold (other than as trustee) or be the trustee of a relevant trust that holds, in cash an amount equal to 20% of the greater of:

(i) the cash outflow for the projected period of at least 3 months, adjusted to produce a 3-month average; or

(ii) the licensee's actual cash outflow for the most recent financial year for which the licensee has prepared a profit and loss statement (ie: Statement of Financial Performance), adjusted to produce a 3-month average.

For the purposes of this definition references to the licensee's cash flow include the licensee's own cash flow and any cash flow of a relevant trust but do not include cash flows of any other trust.

For the purposes of paragraph (e) of this definition, "cash" means

(A) current assets valued at the amount of cash for which they can be expected to be exchanged within 5 business days; or

(B) a commitment to provide cash from an eligible provider that can be drawn down within 5 business days and has a maturity of at least a month;

but does not include any cash in a relevant trust if the licensee has reason to believe that the cash will not be available to meet all of the projected cash flows of the licensee.

**Option 2** means the cash needs requirement on the contingency-based projection basis where the licensee is required to:

(a) prepare a projection of the licensee's cash flows over at least the next 3 months based on the licensee's estimate of what would happen if the licensee's ability to meet its liabilities over the projected term (including any liabilities the licensee might incur during the term of the projection) was adversely affected by commercial contingencies taking into account all contingencies that are sufficiently likely for a reasonable licensee to plan how they might manage them; and

(b) document the licensee's calculations and assumptions, and describe in writing why the assumptions relied upon are the appropriate assumptions; and

(c) update the projection of the licensee's cash flows when those cash flows cease to cover the next 3 months or if the licensee has reason to suspect that an updated projection would show that the licensee was not meeting paragraph (d) of this definition; and

(d) demonstrate, based on the projection of the licensee's cash flow, that the licensee will have access when needed to enough financial resources to meet its liabilities over the projected term of at least 3 months, including any additional liabilities the licensee might incur during that term.

For the purposes of this definition references to the licensee's cash flow include any cash flow of a relevant trust.

**regulated trust account** means:

(a) a trust account maintained by an authorised trustee corporation under State or Territory legislation; or

(b) a solicitor's trust account; or

(c) a real estate agent's trust account; or

(d) a trust account maintained by an entity other than the licensee which provides protections similar to the accounts described in paragraphs (a) to (c) and is approved by ASIC for the purpose in writing.

**relevant market** means such financial markets as ASIC may from time to time notify the licensee as relevant markets. At the date of this licence the licensee is notified that the following are relevant markets until ASIC otherwise notifies the licensee:

(a) the financial market operated by Australian Stock Exchange Limited ("ASX"); and

(b) the financial market operated by Sydney Futures Exchange Corporation Limited ("SFE"); and

(c) the financial market operated by ASX Futures Exchange Pty Limited ("ASXF").

**relevant trust** means, for the purposes of the definitions of "Option 1" and "Option 2" of this licence, a trust:

(a) where substantially all of the financial services business carried on by the licensee is carried on as trustee of a trust; and

(b) that it is not a registered scheme or a superannuation entity as defined in subsection 10(1) of the Superannuation Industry (Supervision) Act 1993.

**surplus liquid funds or (SLF)** means total adjusted assets less total adjusted liabilities calculated on the basis of assets disregarding non current assets and liabilities disregarding non current liabilities valued and recognised as they would appear if a balance sheet (ie: Statement of Financial Position) were made up for lodgement as part of a financial report under Chapter 2M of the Act at the time of calculation on the basis that the licensee is a reporting entity.

**trigger point** means either of the trigger points described in condition 11 of this licence.