

Financial institutions

QBE Insurance (Australia) Limited

Crime insurance policy



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About this booklet

There are two parts to this booklet. The first part is Important Information about this Policy including information about how we'll protect your privacy and how to make a complaint or access our dispute resolution service.

The second part is your Policy Wording which sets out the detailed terms, conditions and exclusions of the Policy.

Because we don't know your own personal circumstances, you should treat any advice in this booklet as purely general in nature. It doesn't consider your objectives, financial situation or needs. You should carefully consider the information provided with regard to your personal circumstances to decide if it's right for you.

For more information or to make a claim

Please take the time to read through this booklet and if you have any questions, need more information or to confirm a transaction, please contact:

- your financial services provider. The contact details for your financial services provider are set out in the documentation they give you.

The section titled 'Claims' at the end of this booklet tells you the full details about what you need to do in the event of a claim. If you'd like to make a claim or to enquire about an existing claim please contact:

- your financial services provider.

About QBE Australia

QBE Insurance (Australia) Limited ABN 78 003 191 035 AFSL 239545 is a member of the QBE Insurance Group Limited ABN 28 008 485 014 (ASX: QBE). QBE Insurance Group is Australia's largest international general insurance and reinsurance group, and one of the top 25 insurers and reinsurers in the world.

Important Information

In this first part of the booklet we explain important information about this Policy including how we'll protect your privacy and how to make a complaint or access our dispute resolution service.

Duty of disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

The General Insurance Code of Practice

QBE Australia is a signatory to the General Insurance Code of Practice.

The Code aims to:

- Commit us to high standards of service
- Promote better, more informed relations between us and you
- Maintain and promote trust and confidence in the general insurance industry
- Provide fair and effective mechanisms for the resolution of complaints and disputes between us and you
- Promote continuous improvement of the general insurance industry through education and training.

Privacy

We'll collect personal information when you deal with us, our agents, other companies in the QBE group or suppliers acting on our behalf. We use your personal information so we can do business with you, which includes issuing and administering our products and services and processing claims. Sometimes we might send your personal information overseas. The locations we send it to can vary but include the Philippines, India, Ireland, the UK, the US, China and countries within the European Union.

Our Privacy Policy describes in detail where and from whom we collect personal information, as well as where we store it and the full list of ways we could use it. To get a free copy of it please visit qbe.com.au/privacy or contact QBE Customer Care.

It's up to you to decide whether to give us your personal information, but without it we might not be able to do business with you, including not paying your claim.

Resolving complaints & disputes

At QBE we're committed to providing you with quality products and delivering the highest level of service.

We also do everything we can to safeguard your privacy and the confidentiality of your personal information.

Something not right?

We know sometimes there might be something you're not totally happy about, whether it be about our staff, representatives, products, services or how we've handled your personal information.

Step 1 - Talk to us

If there's something you'd like to talk to us about, or if you'd like to make a complaint, speak to one of our staff. When you make your complaint please provide as much information as possible. They're ready to help resolve your issue.

You can also contact our Customer Care Unit directly to make your complaint. Our aim is to resolve all complaints within 15 business days.

Step 2 - Escalate your complaint

If we haven't responded to your complaint within 15 days, or if you're not happy with how we've tried to resolve it, you can ask for your complaint to be escalated for an Internal Dispute Resolution (IDR) review by a Dispute Resolution Specialist.

The Dispute Resolution Specialist will provide QBE's final decision within 15 business days of your complaint being escalated, unless they've requested and you've agreed to give us more time.

Step 3 - Still not resolved?

If you're not happy with the final decision, or if we've taken more than 45 days to respond to you from the date you first made your complaint, you can contact the Financial Ombudsman Service Australia (FOS Australia). FOS Australia is an ASIC approved external dispute resolution body.

FOS Australia resolves insurance disputes between consumers and insurers, at no cost to you. QBE is bound by FOS Australia's decisions - but you're not. You can contact FOS Australia directly and they'll advise you if your dispute falls within their Terms of Reference.

Disputes not covered by the FOS Australia Terms of Reference

If your dispute doesn't fall within the FOS Australia Terms of Reference, and you're not satisfied with our decision then you may wish to seek independent legal advice.

Privacy complaints

If you're not satisfied with our final decision and it relates to your privacy or how we've handled your personal information, you can contact the Office of the Australian Information Commissioner (OAIC).

Contacting QBE Customer Care, FOS or the OAIC

How to contact QBE Customer Care

Phone	1300 650 503 (Monday to Friday from 9am to 5pm, Sydney time, except on public holidays). Calls from mobiles, public telephones or hotel rooms may attract additional charges.
Email	<ul style="list-style-type: none"> • complaints@qbe.com, to make a complaint. • privacy@qbe.com, to contact us about privacy or your personal information. • customercare@qbe.com, to give feedback or pay a compliment.
Post	Customer Care, GPO Box 219, PARRAMATTA NSW 2124

How to contact FOS Australia

Phone	1800 367 287 (Monday to Friday from 9am to 5pm, Melbourne time, except on public holidays)
Email	info@fos.org.au
Online	www.fos.org.au

How to contact the OAIC

Phone	1300 363 992 (Monday to Friday from 9am to 5pm, Sydney time, except on public holidays). Calls from mobiles, public telephones or hotel rooms may attract additional charges.
Email	enquiries@oaic.gov.au
Online	www.oaic.gov.au

Losses Discovered Policy

This is a 'Losses Discovered' Policy of insurance. This means that the insurance covers the insured for losses discovered during the period of cover and notified to QBE in accordance with the Policy terms. For the purposes of this insurance, discovery is deemed to occur when an officer of the insured first becomes aware of facts which would cause a reasonable person to believe that a loss of the type covered by this insurance has been or will be incurred, regardless of when the act, transaction or event causing or contributing to such loss occurred, and regardless of whether the insured's knowledge of such act or acts is sufficient at such time to prove that such loss meets the terms and conditions of the insurance, and even though the amount or details of loss may not then be known.

Discovery is also deemed to occur when the insured receives notice of an actual or potential claim in which it is alleged that the insured is liable to a third party under circumstances which, if true, might constitute a loss of a type indemnified by the insurance, even though the amount or details of loss may not then be known.

This insurance does not provide cover in relation to:

- events that occurred prior to the retroactive date of the insurance (if such a date is specified);
- losses discovered prior to the commencement of the period of cover;
- losses discovered after the expiry of the period of cover even though the event giving rise to the claim for loss may have occurred during the period of cover;
- losses notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy;

- losses arising out of circumstances noted on the proposal form for the current period of cover or on any previous proposal form; or
- loss arising directly or indirectly from or in connection with or involving dishonesty or fraud, which occurred after the insured, or any officer thereof not knowingly involved in such dishonesty or fraud, knew or had reasonable cause for suspicion that such a loss might occur.

Policy Terms and Conditions for Financial Institutions Crime Policy

Insurer

The Policy is underwritten by QBE Insurance (Australia) Limited, ABN 78 003 191 035, AFS Licence No. 239545.

Section 1: Operative Clause

Whereas the Insured has made to QBE a written proposal which it is agreed shall form the basis of this insurance, and in consideration of the payment of the premium, QBE will provide indemnity in accordance with and subject to the terms of this Policy.

Section 2: Insuring Agreements

QBE agrees to indemnify the insured subject to the terms of this Policy and in accordance with the following insuring agreements against direct financial loss sustained subsequent to the retroactive date and first discovered by the insured during the Period of Indemnity:

2.1 Computer crime

By reason of the insured having transferred, paid or delivered any property, established any credit, debited any account or given any value (or to have refrained from doing so) resulting directly from:

- (a) fraudulent computer manipulation of electronic data or electronic computer instructions:
 - (a) transmitted from or stored within the insured's computer system; or
 - (b) transmitted from or through an electronic communication system into the insured's computer system;
- (b) the malicious destruction or attempted malicious destruction of the insured's electronic data while such electronic data is stored within the insured's computer system;

which fraudulent or malicious acts were committed by a person who intended to cause the insured to sustain a loss or to obtain financial gain for himself/herself or any other person.

2.2 Computer virus

Resulting directly from the:

- (a) insured having transferred, paid or delivered any property, established any credit, debited any account or given any value (or to have refrained from doing so) resulting directly from the destruction or attempted destruction of electronic data or detrimental impact thereon as the result of a computer virus while such electronic data is stored within the insured's computer system;
- (b) loss of the insured's electronic data as the result of the destruction or attempt thereat of such electronic data due to a computer virus caused by any person while such electronic data is stored within the insured's computer system or a service bureau's computer system.

2.3 Counterfeit currency

Resulting directly from the receipt by the insured in good faith of any counterfeit money.

2.4 Extortion

Resulting directly from the surrender of property by the insured under threat of harm to a director, officer or employee or a relative thereof or under threat of damage to the insured's premises or property or funds. provided always that such property or funds were surrendered after a reasonable attempt was made (if practicable) to report the matter to the Police.

2.5 Fidelity

Resulting directly from dishonest or fraudulent acts by any employee, acting alone or in collusion with others, committed with the manifest intent to cause the insured to sustain such loss and to obtain a financial gain for the employee or another.

This insuring agreement does not provide indemnity in connection with salary, fees, commissions, awards, profit sharing or pension benefits, promotions and other similar emoluments.

2.6 Forged telefacsimile

Resulting directly from the insured having transferred, paid or delivered any property, established any credit, debited any account or given any value on the faith of any tested instructions directed to the insured authorising, or acknowledging, the transfer, payment, delivery or receipt of property which tested instructions were transmitted by telefacsimile directly to the insured and fraudulently purport to have been sent by a customer, an office of the insured or another financial institution, but which Tested instructions were sent without the knowledge or consent of said person and bear a forged signature or were fraudulently altered.

2.7 Forgery or alteration

Resulting directly from:

- (a) forgery or fraudulent alteration of, on, or in any property; or
- (b) the insured having transferred, paid or delivered any property or established any credit or given any value on the faith of any written instructions or advice:
 - (i) directed to the insured by any third party, or
 - (ii) issued by the insured internally,

which instructions or advice authorise or acknowledge the transfer, payment, delivery or receipt of property, and which purport to have been signed or endorsed by any customer or authorised signatory of the insured or by any financial institution, and which either bear a signature which is a forgery or have been fraudulently altered without the knowledge and consent of such customer or authorised signatory of the insured or financial institution originating such written instructions or advices.

2.8 In transit

Resulting directly from loss of property from any cause while the property are in transit anywhere in the custody of an employee or any person designated by the insured to act as its messenger, or while in the custody of any security or armoured motor vehicle company, for the purpose of transportation on behalf of the insured such transit to begin immediately upon receipt of such property by the transporting person or persons and to end immediately upon delivery to the designated recipient or its agent.

2.9 On premises

Resulting directly from the loss of property due to:

- (a) theft, larceny, false pretences, burglary, robbery or hold-up committed by persons physically present on the premises where the property is located; or
- (b) its mysterious inexplicable disappearance; or
- (c) it being damaged, destroyed or misplaced howsoever or by whomsoever caused,

while such property is within any of the insured's premises or within any recognised place of safe deposit within Australia or is actually within the premises of any of the insured's correspondent financial institutions or is within the premises of any transfer or registration agent for the purpose of exchange, conversion, registration or transfer in the usual course of the insured providing the financial service.

Loss of property through any of the perils specified in this clause, in the possession of any customer of the insured, or of any representative of such customer, within the premises of the insured for the purpose of transacting business with the insured in accordance with the financial service, whether or not the insured is legally liable for the loss thereof, is subject always to clause 6.1 (Basis of valuation claims condition), and excluding in any event loss caused by such customer or representative.

2.10 Securities

Resulting directly from the insured having, in good faith, for its own account or for the account of others:

- (a) acquired, sold or delivered, or given value, extended credit or assumed liability, on the faith of any original:
 - (i) certificated security;
 - (ii) deed, mortgage or other instrument conveying title to, or creating or discharging a lien upon, real property;
 - (iii) evidence of debt;
 - (iv) instruction; or
 - (v) Statement of uncertificated security

which:

 - (I) bears a signature of any maker, drawer, issuer, endorser, assignor, lessee, transfer agent, registrar, acceptor, surety, guarantor, or of any person signing in any other capacity which is a forgery; or
 - (II) is fraudulently altered; or
 - (III) is lost or stolen;
- (b) guaranteed in writing or witnessed any signature upon any transfer, assignment, bill of sale, power of attorney, guarantee, or any items listed in 2.10(a) (i) [Certificated security] to 2.10(a) (iii) [Evidence of debt] inclusive of this clause;
- (c) acquired, sold or delivered, or given value, extended credit or assumed liability, on the faith of any item listed in 2.10(a) (i) [Certificated security] and 2.10(a) (v) [Statement of uncertificated security] of this clause which is a counterfeit; or
- (d) been deceived as to the identity of any person for the purpose of the buying or selling of property.

2.11 Voice initiated transfers

Resulting directly from the insured having transferred any funds on the faith of any voice initiated funds transfer instructions:

- (a) directed to the insured authorising the transfer of funds in a customer's account to another financial institution for the credit to persons designated by the customer, and which instructions were made over the telephone to those employees of the insured specifically authorised to receive said instructions at the insured's offices, and fraudulently purport to have been made by a person authorised and appointed by a customer to request by telephone the transfer of such funds but which instructions were not made by said customer or by any officer, director, partner or employee of the customer or were fraudulently made by an officer, director, partner or employee of the customer whose duty, responsibility or authority did not permit him to make, initiate, authorise, validate or authenticate customer voice initiated funds transfer instructions, which fraudulent acts were committed by said person who intended to cause the insured or the customer to sustain a loss or to obtain financial gain for himself/herself or any other person; or
- (b) purportedly communicated between the insured's offices authorising the transfer of funds in a customer's account to another financial institution for the credit to persons allegedly designated by the customer and which instructions were purportedly made over the telephone between the insured's offices by those employees of the insured specifically authorised to send and receive said inter-office instructions by telephone, which fraudulent acts were committed by a person other than an employee of the insured who intended to cause the insured or the customer to sustain a loss or to obtain financial gain for himself/herself or any other person.

Provided always that all voice initiated requests received for the transfer of funds must be **tested** or subject to a call-back to an authorised person other than the individual initiating the transfer request.

Section 3: Policy Extensions

The indemnity provided by the following extensions are for no additional premium, provided always that such Extensions:

- (a) are subject to the Policy Schedule, insuring agreements, conditions, definitions, exclusions, deductible and other terms of this Policy (unless otherwise expressly stated herein);
- (b) shall not increase the limit of indemnity.

3.1 Incomplete transactions

QBE shall indemnify the insured's liability to third parties as a direct result of the insured's failure or inability to complete any transaction as a result of:

- (a) loss of property resulting directly from robbery, theft, misplacement, mysterious unexplainable disappearance, being lost or made away with, and damage thereto or destruction thereof, while the property is in transit anywhere, or within offices or premises located anywhere;
- (b) the insured, in good faith, acting upon, dealing in or handling or possessing for any reason property which proves to be:
 - (i) Counterfeit; or
 - (ii) fraudulently altered; or
 - (iii) a Forgery; or
 - (iv) lost or stolen
- (c) the insured having been deceived as to the identity of any person for the purpose of the buying or selling of property.

3.2 Managed investments

QBE shall indemnify the insured in the manner provided for under the insuring agreements of this Policy which are operative, for loss of scheme property or funds held, managed or administered by or on behalf of the insured or for which the insured is legally liable.

3.3 Legal fees

QBE shall indemnify the insured for reasonable legal expenses incurred by the insured with the prior written approval of QBE in the defence of any legal proceeding brought to determine the insured's liability for any loss, claim or damage which, if established, would constitute a loss indemnified under this Policy.

If the amount of legal expenses incurred in the legal proceeding does not exceed the deductible, QBE is not liable for such legal expenses.

Section 4: General Policy Exclusions

This Policy does not indemnify the insured:

4.1 Authorised access to the customer's authentication mechanism.

For loss arising directly or indirectly from or in connection with the input of electronic data at an authorised electronic terminal of an electronic funds transfer system or an electronic communication system by a customer or other person who had authorised access to the customer's authentication mechanism except where such customer or person obtained access beyond their authorisation.

4.2 Computer instructions developed for sale

For loss arising directly or indirectly from or in connection with fraudulent features contained in electronic computer instructions developed for sale to or that are sold to multiple customers at the time of their acquisition from a vendor or consultant.

4.3 Consequential loss

For loss arising directly or indirectly from or in connection with consequential loss of any nature including but not limited to deprivation of potential income, interest, dividends or similar heads of indirect losses, because of a loss indemnified under this Policy.

4.4 Costs of establishing a loss

For costs, fees or other expenses (of whatsoever nature) incurred by the insured in investigating or establishing the existence of or amount of loss indemnified under this Policy or the cost to the insured of having any director, officer or employee co-operate with the investigation by QBE of any claim under this Policy.

4.5 Date conformity

For loss arising directly or indirectly from or in connection with the fact that the performance or functionality of any computer system has been or may be affected because that computer system does not meet date conformity.

4.6 Electronic data by mail or carrier for hire

For loss arising directly or indirectly from or in connection with the loss of electronic data processing media or electronic data while in the mail or with a carrier for hire, other than a security or armoured motor vehicle company.

4.7 Error in tellers' cash

For loss arising directly or indirectly from or in connection with any shortage in any tellers' cash due to error, regardless of the amount of such shortage. Any shortage in tellers' cash which is not in excess of the normal shortage in the tellers' cash in the office where such shortage shall occur shall be assumed to be due to error.

4.8 Insolvency

For loss arising directly or indirectly from or in connection with the insured becoming or being insolvent.

4.9 Merger or acquisition

For loss arising directly or indirectly from or in connection with the insured having acted upon any securities or written instruments in relation to any:

- (a) merger, consolidation or similar acquisition with, into or by the insured; or
- (b) purchase or sale of assets or shares occasioning any change in ownership or control, whether financial or otherwise, of another business by the insured.

4.10 Non executive directors & officers

For loss arising directly or indirectly from or in connection with any act or default of any director or Officer of the insured except when such director or Officer is an executive director or an executive officer of the insured and then only while such executive director or executive officer is performing acts coming within the scope of the usual duties of an employee of the insured.

4.11 Prior Knowledge

For loss arising directly or indirectly from or in connection with or involving dishonesty or fraud, which occurred after the insured, or any Officer thereof not knowingly involved in such dishonesty or fraud, knew or had reasonable cause for suspicion that such a loss might occur. Prior knowledge by any employee that a fraudulent act by a person or persons, not in the employ of the insured, has been or will be perpetrated, shall for the intent and purpose of this Policy be deemed to be collusion should said employee wilfully or deliberately withhold this knowledge from the insured. The withholding of knowledge from the insured by an employee because of a threat to do bodily harm to any person or to do damage to the premises or property of the insured shall not be deemed to be or to constitute collusion.

4.12 Property damage

For loss arising directly or indirectly from or in connection with the loss of or damage to any property whatsoever (including property) from typhoon, hurricane, cyclone, volcanic eruption, earthquake, subterranean fire or other convulsion of nature, including but not limited to contemporaneous or ensuing loss or damage by fire or looting.

4.13 Radioactivity

For loss arising directly or indirectly from or in connection with:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4.14 Terrorism

For loss arising directly or indirectly from or in connection with any actual or alleged act of terrorism or any action taken in controlling, preventing, suppressing or in any way relating to any actual or alleged act of terrorism.

This exclusion operates in connection with any act of terrorism regardless of any other cause or event and regardless of the sequence of the act of terrorism and the other cause or event.

If QBE asserts that this exclusion applies, then in any action, suit, proceedings or claim brought by or on behalf of the insured or QBE or any other person in connection with the terrorism exclusion, the burden of proving that this exclusion does not operate shall be upon the insured or that other person.

4.15 Timing

For loss:

- (a) sustained prior to the retroactive date or involving any act, transaction or event which occurred in whole or part, or commenced, prior to the retroactive date; or
- (b) discovered prior to the inception date of the period of indemnity; or
- (c) discovered subsequent to the period of indemnity; or
- (d) involving any act, transaction or event notified to a prior issuer, insurer or underwriter of any bond or crime insurance policy; or
- (e) recorded in the proposal, no matter how that reference is made.

4.16 Trade secrets

For loss arising directly or indirectly from or in connection with the accessing of any confidential information including but not limited to trade secret information, computer programs or customer information except where such information is used for fraudulent purposes.

4.17 Travellers' cheques

For loss arising directly or indirectly from or in connection with unsold travellers' cheques placed in the custody of the insured with authority to sell, unless the insured is legally liable for such loss and such cheques are later paid or honoured by the issuer thereof.

4.18 War

For loss arising directly or indirectly from or in connection with war, invasion, act of foreign enemy, hostilities or warlike operations (whether war has been declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power, martial law, riot or confiscation or nationalisation or requisition of or damage to property by or under the order of, or the act of, any lawfully constituted authority. In any claim, and in any action, suit or other proceeding to enforce a claim under this Policy for loss, the burden of proving that such loss does not fall within this exclusion shall be upon the insured.

4.19 Wear or tear, etc.

For loss arising directly or indirectly from or in connection with:

- (a) mechanical failure, faulty construction, error in design, latent defect; or
- (b) wear or tear, gradual deterioration; or
- (c) electrical disturbance, electronic data-processing media failure or breakdown; or
- (d) any malfunction or error in programming; or
- (e) errors or omissions in processing; or
- (f) moth or vermin.

Section 5: Interlocking Indemnity Exclusions

This Policy does not indemnify the insured:

5.1 ATMs

For loss arising directly or indirectly from or in connection with automated mechanical devices which, on behalf of the insured, disburse money, accept deposits, cash cheques, drafts or similar written instruments or make credit card loans, unless such automated mechanical devices are situated within an office of the insured which is permanently staffed by an employee whose duties are those usually assigned to a bank teller, even though public access is from outside the confines of such office, but in no event shall QBE be liable for loss (including loss of money or funds):

- (a) as a result of damage to such automated mechanical devices from vandalism or malicious mischief perpetrated from outside such office; or
- (b) as a result of failure of such automated mechanical devices to function properly; or
- (c) through misplacement or mysterious inexplicable disappearance while such money or funds are located within any such automated mechanical devices,

unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

5.2 Carrier for hire

For loss of property while in the custody of a carrier for hire (except a security or armoured motor vehicle company) unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

5.3 Credit cards

For loss arising directly or indirectly from or in connection with the use of credit, debit, charge, access, convenience, identification or other cards:

- (a) in obtaining credit; or
- (b) in gaining access to automated mechanical devices which, on behalf of the insured, disburse money, accept deposits, cash cheques, drafts or similar written instruments or make credit card loans; or
- (c) in gaining access to point of sale terminals, customer-bank communication terminals or similar electronic terminals of electronic funds transfer systems,

whether such cards were issued, or purport to have been issued by the insured or by anyone other than the insured, unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

5.4 Damages

For or in connection with damages of any type for which the insured is legally liable, except compensatory damages (but not multiples thereof) arising from a loss indemnified under this Policy, unless such loss is indemnified by clause 3.1 (Incomplete transactions extension), clause 3.2 (Managed investments extension) or clause 3.3 (Legal fees extension).

5.5 Erroneous entries

For loss arising directly or indirectly from or in connection with payments made or withdrawals from any depositor's account by reason of funds having been credited erroneously by the insured to such account, unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

5.6 Fidelity

For loss arising directly or indirectly from or in connection with any dishonest or fraudulent act of any employee of the insured, unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

5.7 Government post

For loss arising directly or indirectly from or in connection with property lost while in the custody of any government postal service, document exchange, or similar service unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

5.8 Loan default

For loss arising directly or indirectly from or in connection with:

- (a) the complete or partial non-payment of or default upon any loan or transaction in the nature of, or amounting to, a loan or extension of credit made by or obtained from the insured; or
- (b) any note, account, agreement or other evidence of debt assigned or sold to, or discounted or otherwise acquired by the insured including the purchase discounting or other acquisition of false or genuine accounts or invoices;

whether procured in good faith or through trick, artifice, fraud or false pretences, unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement), 2.7 (Forgery or alteration insuring agreement) or 2.10 (Securities insuring agreement), in which event the amount of such loss shall be determined to be the amount of monies paid out, advanced or withdrawn less all monies received from any source whatsoever, including payments and receipts of principal, interest, commissions and the like.

5.9 Safe deposit boxes

For loss arising directly or indirectly from or in connection with damage to any property whatsoever (including property) either contained in safe deposit boxes obtained by customers from the insured or held in safe custody for customers by the insured, unless such loss is covered by clause 2.5 (Fidelity insuring agreement).

5.10 Travellers' cheques

For loss arising directly or indirectly from or in connection with forgery or fraudulent alteration of, on or in, any travellers' cheques, travellers' letters of credit, accounts receivable or assignments thereof, warehouse or trust receipts, or receipts serving a similar purpose unless such loss is indemnified by clause 2.5 (Fidelity insuring agreement).

Section 6: Claims Conditions

6.1 Basis of valuation

Valuation of securities and foreign currencies

The value of any securities in respect of which loss is claimed, shall be determined by their closing market value on the last business day prior to the date of discovery of the loss or in the event of the discovery of the loss after the close of the market, by their closing market value on the day of discovery of the loss.

The value of foreign funds or currencies in respect of which loss is claimed, shall be determined by their mid-spot rate on the last business day prior to the date of discovery of the loss or in the event of the discovery of the loss after the close of the market, by their mid-spot rate on the day of discovery of the loss.

If there is no market value for securities or foreign funds or currencies on the day as stated in the preceding paragraphs then the value shall be as agreed between the insured and QBE or in default thereof by arbitration. If, however, such securities or foreign funds or currencies shall be replaced by the insured with the approval of QBE, the value shall be the actual cost of replacement.

Books of accounts and records

In the case of loss arising out of the loss of or damage to property consisting of books of accounts or other records used by the insured in the conduct of their business, QBE shall be liable under this Policy only if such books or records are actually reproduced and then for not more than the cost of blank books, blank pages or other materials plus the cost of labour and

computer time for the actual transcription or copying of data which shall have been furnished by the insured in order to reproduce such books and other records.

Electronic data processing media

In case of loss arising out of the loss of, or damage to, electronic data processing media used by the insured in its business, QBE shall be liable under this Policy only if such items are actually reproduced by other electronic data processing media of the same kind or quality and then for not more than the cost of the blank media plus the cost of labour for the actual transcription or copying of data which shall have been furnished by the insured in order to reproduce such electronic data processing media.

Electronic data

In case of loss arising out of the loss or corruption of electronic data, QBE shall be liable under this Policy only if such data is actually reproduced by other electronic data of the same kind or quality and then for not more than the cost of labour for the actual transcription or copying of data which shall have been furnished by the insured in order to reproduce such electronic data. However, if such electronic data cannot be reproduced and said electronic data represents securities, or financial instruments having a value, including evidence of debt, then the loss will be valued as indicated in the other property clause of this Claims Condition.

Other property

In case of loss arising out of the loss of, or damage to, any property (other than property or electronic data processing media), QBE shall not be liable for more than the actual cash value of such property. QBE may, at its election, pay the actual cash value of or replace or repair such property. Disagreement between QBE and the insured as to the cash value or as to the adequacy of repair or replacement shall be resolved by arbitration.

6.2 Conduct in respect of third party claims

The insured shall give immediate notice to QBE of the institution of any legal proceeding ('claim') in respect of which the insured may seek to be indemnified under clause 3.3 (Legal expenses extension) and, at the request of QBE, shall furnish copies of all pleadings and other papers therein.

The insured will not admit liability for, settle or compromise any claim against it by a third party or incur any legal expenses in connection with that claim without the prior written consent of QBE where the facts and circumstances upon which the claim is based comprise or may comprise those which relate to any loss or legal expenses in respect of which the insured may seek to be indemnified under this Policy.

The insured shall not be required to contest any claim against it unless a Counsel (to be mutually agreed between QBE and the insured) shall advise that such claim should be contested. In formulating such advice Counsel shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the claimant, the likely costs and expenses of the insured in defending the claim and the prospects of the insured successfully defending the claim.

QBE shall not be liable to indemnify the insured for legal expenses until after final judgement in or settlement of the claim. QBE may at its discretion, but is not obligated to, conduct the defence of such claim. At QBE's election, the insured shall permit QBE to conduct the defence of such claim, in the insured's name, through legal representatives of QBE's selection. The insured shall give all reasonable information, co-operation and assistance that QBE shall deem necessary to the defence of such claim.

The insured shall not unreasonably withhold consent to a settlement by QBE of any claim. In the event that QBE recommends settlement in respect of any claim against the insured and the insured does not agree that such claim should be settled, then the insured may elect to contest such claim, provided always that QBE's liability in connection with the claim shall not exceed the amount for which the claim could have been so settled plus legal expenses incurred with QBE's consent up to the date of such election.

If, having elected to defend, QBE pays legal expenses in excess of their proportionate share of such legal expenses, the insured shall promptly reimburse QBE for such excess.

If multiple causes of action are alleged in any such claim, some of which causes of action, if established against the insured, would not constitute a loss indemnified under this Policy, then the insured shall bear the legal costs and expenses incurred in the defence of such causes of action alleged in the claim. Such costs and expenses are not indemnified under the Policy.

If the amount of the insured's loss is greater than the amount indemnified under this Policy, or if a Deductible is applicable, or both, the liability of QBE under Insuring Clause 3.3 (Legal expenses Extension) is limited to the proportion of the Legal expenses incurred and paid by the insured, or by QBE, that the indemnified loss under this Policy bears to the total amount of the insured's loss. Such pro rated liability of QBE shall be applied in reduction of the Limit of Indemnity stated in item 10 of the Policy Schedule.

6.3 Co-operation

At QBE's reasonable request, the insured after giving notice of any loss shall:

- (a) submit to examination by QBE and subscribe to the same under oath; and produce for QBE's examination all pertinent records; and
- (b) co-operate with QBE in all matters pertaining to the loss; and cause all persons interested in the matter, so far as it is within the insured's power, including Employees, to submit to examination by QBE and subscribe to the same under oath.

The insured shall execute all papers and render assistance to secure to QBE the rights and causes of action provided for herein. The insured shall do nothing after discovery of loss to prejudice such rights or causes of action.

6.4 Discovery

This Policy applies only to loss discovered by the insured during the period of indemnity. For the purposes of this Policy, discovery is deemed to occur when an Officer of the insured first becomes aware of facts which would cause a reasonable person to believe that a loss of the type indemnified by this Policy has been or will be incurred, regardless of when the act, transaction or event causing or contributing to such loss occurred, and regardless of whether the insured's knowledge of such act or acts is sufficient at such time to prove that such loss meets the terms and conditions of this Policy, and even though the amount or details of loss may not then be known.

Discovery is also deemed to occur when the insured receives notice of an actual or potential claim in which it is alleged that the insured is liable to a third party under circumstances which, if true, might constitute a loss of a type indemnified by this Policy, even though the amount or details of loss may not then be known.

6.5 Notification of loss; Proof of loss; Legal proceedings

As a condition precedent to its right to be indemnified under this Policy, the insured shall, as soon as possible and in any event within thirty (30) days after discovery by the insured of any loss, give written notice thereof to:

The Claims Manager
Professional Liability Division
QBE Insurance (Australia) Ltd
Level 5, 2 Park Street Sydney NSW 2000

The insured shall also, within six (6) months after such discovery, furnish to QBE affirmative proof of loss in writing together with full particulars.

Legal proceedings against QBE for recovery of any loss shall not be brought later than two (2) years from the discovery of such loss, except that any action or proceeding to recover hereunder on account of any judgement against the insured in any suit which establishes loss indemnified by this Policy shall be commenced within two (2) years from the date upon which the judgement in such suit shall become final.

If the said two (2) year limitation is prohibited by any law governing the construction of this Policy, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

6.6 Salvage and recovery

In the case of recovery on account of any loss or legal expenses indemnified under this Policy the amount recovered, after deducting the actual cost of obtaining or making such recovery but excluding the insured's own labour and/or establishment costs, shall be applied in the following order:

- (a) To reimburse the insured in full for the part, if any, of such loss which exceeds the amount of indemnity provided by this Policy (disregarding the amount of any excess or deductible applicable);
- (b) The balance, if any, or the entire net recovery if no part of such loss exceeds the amount of indemnity provided by this Policy, in reduction of that part of such loss indemnified by this Policy, or if payment thereof shall have been made, to the reimbursement of QBE;
- (c) Finally, to that part of such loss sustained by the insured by reason of any excess or deductible clause as specified in the Policy Schedule.

6.7 Subrogation

It is agreed that QBE, upon payment of any loss or legal expenses hereunder, shall become subrogated to all rights and remedies of the insured. At the request of QBE the insured shall execute such documents as are necessary for QBE to obtain the benefit of such subrogated rights and, if requested by QBE, to transfer the insured's rights, title and interest held against any person or entity.

6.8 Superseded cover

If the indemnity provided by this Policy supersedes, in whole or in part, the coverage of any other policies of insurance or bonds issued by an insurer other than QBE and which have been terminated, cancelled or allowed to expire, then, with respect to any loss sustained prior to such termination, cancellation or expiration and discovered within the period permitted under such other policies or bonds, QBE shall not be liable under this Policy for any such loss sustained prior to inception of this Policy, notwithstanding anything to the contrary in such other policies or bonds.

Section 7: General Conditions

7.1 Action against service bureau or customer

This Policy does not afford indemnity in favour of any service bureau or customer and upon payment to the insured by QBE on account of any loss through fraudulent or dishonest acts committed by any of the partners, directors, officers or employees of such service bureau or customer whether acting alone or in collusion with others, an assignment of such of the insured's rights and causes of action as they may have against such service bureau or customer by reason of such acts so committed shall, to the extent of such payment, be given by the insured to QBE and the insured shall execute all papers necessary to secure to QBE the rights for which are herein provided.

7.2 Assignment of interest

No change in, or modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy and signed by an authorised employee of QBE.

7.3 Cancellation

The insured may cancel this Policy at any time by notifying QBE in writing, and QBE will allow a pro-rata refund of premium less 20% of the premium for the unexpired period of indemnity.

QBE may cancel this Policy in accordance with the relevant provisions of the *Insurance Contracts Act 1984* and QBE will provide a pro-rata refund of premium for the unexpired period of indemnity but such refund will never be greater than 75% of the premium.

7.4 Deductible

QBE shall be liable only in excess of the deductible. The deductible shall apply to each and every loss, irrespective of the number of such losses during the period of indemnity. Provided always that loss from a series of related continuous or repeated dishonest or fraudulent acts is to be regarded as a single loss.

If the amount of legal expenses incurred in any legal proceeding does not exceed the deductible, QBE is not liable for such legal expenses.

The deductible shall apply to the ultimate net loss of the insured subsequent to the retroactive date.

7.5 Exclusive Policy benefit

This Policy shall apply to the loss of property, electronic data processing media and electronic data owned by the insured, held by the insured in any capacity or for which the insured is legally liable. This Policy shall be for the sole use and benefit of the insured named in item 4 of the Policy Schedule, and that in no event shall anyone other than the said insured have any right of action under this Policy.

7.6 Goods & Services Tax

Where the insured pays an amount for any acquisition relevant to a claim indemnified under this Policy which includes GST, or where the insured would pay such an amount were the insured to make a relevant acquisition, QBE will indemnify the insured for that GST less any Input Tax Credit the insured is or would be able to claim for it (the 'GST' amount).

QBE will pay the GST amount in addition to the limit of indemnity shown in the Policy Schedule. Where the amount paid by QBE in respect of the claim is less than the total amount of the claim, QBE will only provide indemnity to the insured for the GST amount that relates to QBE's proportion of the insured's claim. This means that in the event that the limit of indemnity is not sufficient to cover the total amount of the claim, QBE will only provide indemnity to the insured for the GST that relates to the insured's agreed payment under this Policy.

QBE will not indemnify the insured for any GST liability that arises due to the insured's failure to notify QBE of the insured's entitlement or correct entitlement to an Input Tax Credit on the premium.

7.7 Joint insured

If there are two or more entities comprising the insured, the first named entity, stated in item 4.1 of the Policy Schedule, shall act for all entities comprising the insured. Payment by QBE to the first named entity of loss sustained by any entity comprising the insured shall fully release QBE on account of such loss. If the first named entity ceases to be indemnified under this Policy, the next named entity shall thereafter be considered as the first named entity. Knowledge possessed or discovery made by any entity comprising the insured shall constitute knowledge or discovery by all entities comprising the insured for all purposes of this Policy. The liability of QBE for loss or losses sustained by all entities comprising the insured shall not exceed the amount for which QBE would have been liable had all such loss or losses been sustained by a single entity comprising the insured.

7.8 Lost instruments

It is agreed that in the event of a valid claim hereunder for loss in respect of securities, the insured may file a lost instruments bond for the purpose of obtaining the issuance of duplicate securities.

It is further agreed that subject to QBE's prior written consent being obtained to the filing of such lost instruments bond, QBE will indemnify the insured for such sum or sums, not exceeding however the limit of indemnity expressed in this Policy, which the insured may be required to pay either during the currency of this Policy or any time thereafter by reason of any indemnifying agreement delivered by the insured to the company issuing the lost instrument bond.

7.9 Limit of indemnity

The total liability of QBE for all loss or losses discovered during the period of indemnity and including legal expenses shall not exceed the limit of indemnity stated in Item 10 of the Policy Schedule irrespective of the total amount of such loss or losses. The indemnity provided by each insuring agreement and extension is part of and not in addition to the limit of indemnity.

The limit of indemnity shall be reduced by the amount of any payment made under this Policy. Upon exhaustion of the limit of indemnity by such payments QBE shall have no further liability:

- (a) to indemnify the insured under any insuring agreement(s) of this Policy for any loss or losses; or
- (b) to indemnify the insured for any legal expenses; or
- (c) to continue the defence of the insured in any suit or legal proceedings in connection with said loss or losses. Upon notice by QBE to the insured that the limit of indemnity has been exhausted, the insured shall assume all responsibility for its defence at its own cost.

The limit of indemnity shall not be reinstated in whole or in part by any recovery effected subsequent to any payment made under this Policy, unless such recovery is actually received by QBE during the period of indemnity or within twelve (12) calendar months thereafter.

If a loss is covered under more than one insuring Agreement the maximum amount payable with respect to such loss shall not exceed the limit of indemnity stated in Item 10 of the Policy Schedule.

Non cumulative liability: Regardless of the number of years this insurance has been in force or may continue to be in force and of the premiums paid or payable in respect thereof, the liability of QBE shall not be cumulative in amount from year to year or from period to period and in no case shall exceed the limit of indemnity.

7.10 Maintenance of internal controls

The insured shall take all reasonable precautions to prevent any loss of the type indemnified by this Policy and shall not, without the prior written consent of QBE, dispense with or materially alter any of the supervision, controls and checks or audit procedures as declared in the Proposal.

7.11 Merger, acquisition or change in ownership or control of the business

The insured shall immediately notify QBE of any acquisition of, or consolidation or merger with, another business or any purchase, assignment, transfer, pledge or sale of assets or shares occasioning any change in ownership or control, whether financial or otherwise, of the business.

The insured shall promptly provide QBE with such further information as QBE shall require in order for QBE to determine if it wishes to cancel the Policy or provide a quote to indemnify the new or merged entity. The insured shall pay such additional premium as QBE may require consequent upon such variation.

The insured warrants that it will not during the period of indemnity:

- (a) engage in any conduct which leads to the appointment of or any application for the appointment of an external administrator including but not limited to a receiver;
- (b) engage in any conduct which leads to control of the insured or the conduct of its affairs being taken over, or purported to be taken over, by any government, government agency or authority or other such similar body;
- (c) suspend payment of its debts or threaten to do so or enter into any voluntary arrangements, scheme of arrangement or composition with any of its creditors.

The insured shall notify QBE in writing within three (3) days of the happening of any of the events in sub-clause 7.11(a), (b) and (c) of this clause, even if the insured contends that the application or appointment or change in control was not based on its conduct.

7.12 Policy construction & interpretation

The construction, interpretation and meaning of the provisions of this Policy shall be determined in accordance with the law of the state, territory or country in which this Policy is issued, being the Place of Issue specified in the Policy Schedule, and any disputes relating thereto shall be submitted to the exclusive jurisdiction of the courts of such state, territory or country. If no Place of Issue is shown in the Policy Schedule it is agreed that the Place of Issue is Sydney, New South Wales, Australia.

The marginal notes and titles of paragraphs in this Policy are included for descriptive purposes only and do not form part of this Policy for the purpose of its construction or interpretation.

Under this Policy, the masculine includes the feminine and the singular includes the plural and vice versa and reference to a person includes a body corporate, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust.

Section 8: Definitions

8.1 Acceptance

Acceptance means a **draft** which the drawee has, by signature written thereon, engaged to honour as presented.

8.2 Act

Act means *Corporations Act 2001*.

8.3 Acquisition

Acquisition has the same meaning as given to that expression in *A New Tax System (Goods and Services Tax) Act 1999*.

8.4 Australian Financial Services Licence

Australian Financial Services Licence means a licence under section 913B of the **Act** that authorises a person to provide financial services.

8.5 Automated clearing house

Automated Clearing House means Australian Payments Clearing Association Limited or any corporation or association which operates an electronic clearing and transfer mechanism for the transfer of preauthorised recurring debits and credits between financial institutions on behalf of the financial institutions' customers.

8.6 Central Securities Depository

Central Securities Depository means:

- (a) Reserve Bank of Australia Information and Transfer System; or
- (b) SFE Austraclear Central Securities Depository;

or any other clearing operation where, as a direct result of an electronic clearing and transfer mechanism, entries are made in the books reducing the account of the transferor, pledger or pledgee and increasing the account of the transferee, pledgee or pledger by the amount of the obligation or the number of shares or rights transferred, pledged or released.

8.7 Certificate of Deposit

Certificate of Deposit means an acknowledgement in writing by a financial institution of receipt of money with an engagement to repay it.

8.8 Certificated Security

Certificated Security means a share, participation or other interest in property of or an enterprise of the issuer or an obligation of the issuer, which is:

- (a) represented by an instrument issued in bearer or registered form; and

- (b) of a type commonly traded on securities exchanges or markets or commonly recognised in any area which it is issued or dealt in as a medium of investment; and
- (c) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests or obligations.

8.9 Compliance committee member

Compliance committee member means any **external compliance committee member** and any **internal compliance committee member** of the Scheme compliance committee established pursuant to the provisions of Section 601JA of the Act.

8.10 Computer manipulation

Computer manipulation means anything done or omitted by a person, other than an **employee**, with intent to obtain financial benefit for any person, other than an **employee**, or with intent to cause the insured to sustain loss by means of the creation, input, modification or destruction of **electronic computer instructions** or **electronic data**.

8.11 Computer systems

Computer systems includes but is not limited to:

- (a) computer hardware, operating system, application, software, and computer chip including microprocessor chip or embedded control logic; and
- (b) all input, output, processing and storage facilities.

8.12 Computer security protocol

Computer security protocol means all internal control procedures devised by or for the **insured** as declared in the **Proposal** in order to protect and preserve the integrity of **electronic Data** and **electronic computer instructions** held in or communicated to or from the **insured's computer systems**.

8.13 Computer Virus

Computer Virus means a set of unauthorised instructions, programmatic or otherwise, that propagate themselves through the **Insured's Computer System** and/or networks which **instructions** were fraudulently or maliciously introduced by a person other than an identifiable **employee**.

8.14 Counterfeit

Counterfeit means an imitation or an actual valid original which is intended to deceive and to be taken as the original.

8.15 Customer

Customer means, for the purposes of clause 2.11 (Voice Initiated Transfers Insuring Agreement), any corporate, partnership or trust customer or similar business entity which has a written agreement with the **insured** for customer voice initiated funds transfers, which agreement shall be in the form of a corporate resolution containing a list of authorised individuals who may initiate and authenticate voice initiated funds transfers, which list must specify the telephone numbers as well as monetary limits for all initiators/authenticators. Such written agreement shall also outline the terms and conditions under which the service is provided including a limitation of liability accepted by the **insured**.

8.16 Date Conformity

Date Conformity means the standard which requires that neither performance nor functionality is affected by dates prior to, during or after the year 2000 and, in particular but without limitation that:

- (a) no value for current date will cause any interruption in operation;
- (b) date based functionality must behave consistently for dates prior to, during and after year 2000;
- (c) in all interfaces and data storage, the century in any date must be specified either explicitly or by unambiguous algorithms or inferencing rules;
- (d) leap years must be recognised as leap years in terms of handling both 29 February and day 366;

- (e) 9 September 1999 must be recognised as that date; and
- (f) the above definition of 'Date Conformity' is based on the definition of 'Year 2000 Conformity' contained in a document published by Standards Australia and Standards New Zealand under reference no. SAA SNZMP77:1998 and shall be interpreted in accordance with that document.

8.17 Deductible

Deductible means the amount shown as the Deductible in the **Policy Schedule**.

8.18 Derivatives

Derivatives includes but is not limited to contracts for difference, futures, options, forward contracts, swaps, indices, strips, hedges, and the like and any instruments, contracts or transactions the value, performance or outcome of which is based upon or determined by or otherwise derived from underlying movements in prices or values, including but not limited to the price or value of any assets or any exchange rates, interest rates or any market index.

8.19 Director

Director means:

- (a) a natural person who:
 - (i) is appointed to the position of a director of the **insured**; or
 - (ii) is appointed to the position of an alternate director of the **insured** and is acting in that capacity; regardless of the name that is given to their position; and
- (b) unless the contrary intention appears, a person who is not validly appointed as a director if:
 - (i) they act in the position of a director; or
 - (ii) the directors of the **insured** are accustomed to act in accordance with the person's instructions or wishes.

Sub-clause 8.19(b)(ii) does not apply merely because the directors act on advice given by the person in the proper performance of functions attaching to the person's professional capacity, or the person's business relationship with the directors of or the **insured**.

It does not mean a **Receiver**.

8.20 Draft

Draft means a draft payable on demand drawn by or on behalf of a financial institution upon itself whether payable at the head office or other office of the insured.

8.21 Electronic Communication System

Electronic Communication System means those electronic communication systems which provide customers of the insured with direct access to the **insured's Computer Systems** and the internet and those systems operated by:

- (a) an Automated Clearing House;
- (b) Fedwire;
- (c) Clearing House Interbank Payment System (CHIPS);
- (d) Society for Worldwide Interbank Financial Telecommunication (SWIFT);
- (e) Clearing House Automated Payment System (CHAPS); or
- (f) similar electronic communication systems and or electronic banking systems including those systems instituted during the **Period of Indemnity**.

8.22 Electronic Computer instructions

Electronic Computer instructions means computer programs, ie, facts or statements converted to a form usable in a **Computer System** to act upon **Electronic Data**.

8.23 Electronic Data

Electronic Data means facts or information converted to a form usable in a **Computer System** and which is stored on **Electronic Data Processing Media** for use by computer programs.

8.24 Electronic Data Processing Media

Electronic Data Processing Media means magnetic tapes, magnetic discs, compact discs or other bulk media on which **Electronic Data** is recorded.

8.2 Electronic Funds Transfer Systems

Electronic Funds Transfer Systems means those systems which operate automated teller machines or point of sale terminals and include any shared networks or facilities for said system in which the **insured** participates.

8.26 Employee

Employee means a natural person:

- (a) employed under contract of service with the **insured** during or prior to commencement of the **Period of Indemnity** including but not limited to a:
 - (i) **Director**;
 - (ii) **Officer**;
 - (iii) **Responsible Officer**;
 - (iv) **Internal Compliance Committee Member**.

who was, or is, pursuant to the contract of service, subject to the direct control and supervision of the

insured

- (b) provided by an employment contractor to perform **employee** duties for the insured under the **insured's** direct control and supervision;
- (c) on secondment from another employer to perform **employee** duties for the **insured** under the **insured's** direct control and supervision;
- (d) who is one of **insured's** retired employees who have been retained by the **insured** as consultants while acting in their capacity as consultants;
- (e) who is engaged by the **insured** as a consultant, while acting in his or her capacity as such;
- (f) who is a guest student pursuing studies or duties in any of the **insured's** premises;
- (g) who is an **external Compliance Committee Member** while acting in his or her capacity as such.

It does not mean an agent.

8.27 Evidence of Debt

Evidence of Debt means an instrument, including a **Negotiable instrument**, executed by a **Customer** of the **insured** and held by the **insured** which in the regular course of providing the **Financial Service** is treated as evidencing the customer's debt to the **insured**.

8.28 Executive director

Executive Director means a **Director** who is also employed under a contract of service with the **insured** during or prior to commencement of the **Period of Indemnity**. It does not mean a non-executive director.

8.29 Executive officer

Executive Officer means an **Officer** who is also employed under a contract of service with the **insured** during or prior to commencement of the **Period of Indemnity**. It does not mean a non-executive officer.

8.30 External compliance committee member

External compliance committee member means a **compliance committee member** who is engaged as a consultant to the **insured** and is not employed under a contract of service with the **insured**.

8.31 Financial service

Financial service means the **financial service** provided by the **insured**, as specified in item 7 of the **Policy Schedule**. If the **Insured** should change its name and there is no other change which materially alters the risk, the **Financial Service** will continue to be covered by this **Policy**.

8.32 Forgery or a forged signature

Forgery or a **forged signature** means the hand-written signing, or endorsing, including a mechanically or electronically reproduced copy of the name of a natural person or organisation without authority and with the intent to deceive. It does not mean a signature or endorsement which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.

8.33 Funds

Funds means the Funds Under Management stated in item 11.2 of the **Policy Schedule** that are managed or administered by or on behalf of the **insured**.

8.34 GST

GST has the same meaning as given to that expression in *A New Tax System (Goods and Services Tax) Act 1999*.

8.35 Guarantee

Guarantee means a written undertaking obligating the signatory to pay the debt of another to the **insured** or its assignee or to a financial institution from which the **insured** has purchased participation in the debt, if the debt is not paid in accordance with its terms.

8.36 Input Tax Credit

Input Tax Credit has the same meaning as given to that expression in *A New Tax System (Goods and Services Tax) Act 1999*.

8.37 Insolvent

Insolvent means:

- (a) the appointment of an administrator or trustee in bankruptcy;
- (b) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, or other steps are taken for:
 - (i) winding up, dissolution, administration or bankruptcy; or
 - (ii) entering into an arrangement, compromise or composition with, or assignment for the benefit of, creditors or a class of them;

except for the purpose of a solvent reconstruction or amalgamation.

- (c) a **Receiver** or similar officer appointed over all or any part of the assets or undertaking;
- (d) stopping or suspending the payment of debts that are due, or the inability to pay debts for any reason.

8.38 Instruction

Instruction means a written order to the issuer of an **Uncertificated Security** signed by the registered owner, the registered pledgee or a person acting in a fiduciary capacity for the registered owner requesting that the transfer, pledge or release from pledge of the **Uncertificated Security** specified therein be registered.

8.39 Insured

Insured means:

- (a) the incorporated body or **Responsible Entity** stated in item 4.1 of the **Policy Schedule**; and
- (b) any **Subsidiary** specified in item 4.2 of the **Policy Schedule**, and declared in the **Proposal** form as constituting the proposed **insured**, engaged in the provision of the **financial service** in part or in whole.

8.40 Insured's computer system means:

- (a) those **computer systems** operated by the **insured** from their premises or from computer terminals over which they have authorised access (including remote terminals and laptops) and which are either owned by, or leased to, the **insured**; and
- (b) the **insured's electronic communication systems**;

provided always that all such systems are set up, operated and checked in accordance with the **insured's computer security protocol**.

8.41 Internal compliance committee member

Internal compliance committee member means a compliance committee member employed under contract of service with the insured during or prior to commencement of the period of indemnity.

8.42 Legal expenses

Legal expenses means the reasonable legal costs and other legal expenses incurred by or on behalf of the insured with the prior written approval of QBE, or by QBE, in the defence of a legal proceeding under extension 3.3 and shall include legal costs and disbursements. It does not include costs and expenses incurred in relation to losses that are not indemnified under this Policy.

8.43 Letter of credit

Letter of credit means an engagement in writing by a bank or other person made at the request of a customer that the bank or other person will honour drafts or other demand for payment upon compliance with the conditions specified in the letter of credit.

8.44 Loan

Loan means:

- (a) any loan or transaction in the nature of, or amounting to, a loan or extension of credit, including a lease, made by or obtained by or from the **insured**;
- (b) any note, account, invoice, agreement or other **evidence of debt**, assigned or sold, or discounted or otherwise acquired by the **insured**; and
- (c) any payments made or withdrawals from a customer's account involving an uncollected item and any other similar transaction.

8.45 Money

Money means a medium of exchange in current use authorised or adopted by a domestic or foreign government as a part of its currency.

8.46 Negotiable instrument

Negotiable instrument means any written document which:

- (a) is signed by the maker or drawer; and
- (b) contains any unconditional promise or order to pay a sum certain in **money** and no other promise, order, obligation or power given by the maker or drawer; and
- (c) is payable on demand or at a definite time; and
- (d) is payable to order or bearer.

8.47 Officer

Officer means:

- (a) a **director**, or secretary of the **insured**; or
- (b) a natural person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the **insured**; or
 - (ii) who has the capacity to affect significantly the **insured's** financial standing; or

in accordance with whose instructions or wishes the Directors of the insured are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Directors or the insured).

It does not mean a Receiver.

8.48 Period of indemnity

Period of indemnity means the period of indemnity stated in item 6 of the Policy Schedule.

8.49 Policy

Policy means:

the Policy Schedule, insuring agreements, extensions, conditions, definitions, exclusions and other terms contained herein;

- (a) any endorsement attaching to and forming part of this **Policy** either at inception or during the **period of indemnity**.

8.50 Property

Property means money, certificated securities, uncertificated securities, negotiable instruments, certificates of deposit, documents of title, acceptances, evidences of debt, electronic data processing media, security agreements, withdrawal orders, certificates of origin or title, letters of credit, insurance policies, abstracts of title, deeds and mortgages on real estate, revenue and other stamps, tokens, gold, and silver which are held by the insured and for which they are legally liable.

8.51 Proposal

Proposal means the written proposal form, bearing the date stated in item 5 of the **Policy Schedule**, made by the **insured** to **QBE** containing particulars and statements together with other information provided by the **insured** to **QBE**.

8.52 QBE

QBE means QBE Insurance (Australia) Limited ABN 78 003 191 035.

8.53 Receiver

Receiver means:

- (a) a receiver, or receiver and manager, of the property of the **insured**; or
- (b) an administrator of the **insured**; or
- (c) an administrator of a deed of company arrangement executed by the **insured**; or
- (d) a liquidator of the **insured**.

8.54 Responsible entity

Responsible entity means the company named in the Australian Securities and Investments Commission's record of the Scheme's registration as the responsible entity or temporary responsible entity of the Scheme.

8.55 Responsible officer

Responsible officer means an officer of the insured who does or will perform duties in connection with the holding of an Australian Financial Services Licence.

8.56 Retroactive date

Retroactive date means the date stated in item 8 of the Policy Schedule.

8.57 Schedule

Schedule means the Policy Schedule to this **Policy**.

8.58 Scheme

Scheme means a managed investment scheme(s):

- (a) registered under section 601EB of the Act; and
- (b) stated in item 11.1 of the **Policy Schedule**; and
- (c) managed by or on behalf of the **insured**; and

established pursuant to and in accordance with the Chapter 5C of the Act;

in respect of which all necessary approvals, licences and authorisations have been obtained and for which the **insured** has obtained all necessary legal approvals, licences and authorisations to manage.

8.59 Scheme property

Scheme property means property managed under the scheme.

8.60 Service bureau

Service bureau means a natural person, partnership or corporation authorised by written agreement to perform data processing services using computer systems.

8.61 Service bureau's computer system

Service bureau's computer system means those computer systems operated by a service bureau and which are either owned by or leased to a service bureau.

8.62 Statement of uncertificated security

Statement of uncertificated security means a written statement of the issuer of an uncertificated security containing:

a description of the Issue of which the uncertificated security is a part;

- (a) the number of shares or units:
 - (i) transferred to the registered owner;
 - (ii) pledged by the registered owner to the registered pledgee;
 - (iii) released for pledge by the registered pledgee;
 - (iv) registered in the name of the registered owner on the date of the statement; or
 - (v) subject to pledge on the date of the statement;
- (b) the name and address of the registered owner and registered pledgee;

a notation of any liens and restrictions of the issuer and any adverse claims to which the uncertificated security is or may be subject to a statement that there are none of those liens, restrictions or adverse claims; and

- (c) the date:
 - (i) the transfer of the shares or units to the new registered owner of the shares or units was registered; or
 - (ii) the pledge of the registered pledgee was registered; or
 - (iii) of the statement, if it is a periodic or annual statement.

8.63 Subsidiary

Subsidiary means:

- (a) any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the **Insured** specified in item 4.1 of the **Policy Schedule**; or
- (b) any entity over which the **insured** specified in item 4.1 of the **Policy Schedule** is in a position to exercise effective direction or control through ownership or control of more than fifty percent (50%) of the issued voting shares of such entity.

Provided always that such subsidiary is engaged in the provision of the financial service.

8.64 Telefacsimile

Telefacsimile means a system of transmitting written documents by electronic signals over telephone lines to equipment maintained by the insured within a secure environment within the insured's premises for the purpose of reproducing a copy of said documents. It does not mean electronic communications sent by Telex, TWX or similar means of communication or through an 'Electronic communication system' or through an 'Automated clearing house'.

8.65 Terrorism

Terrorism means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, or government(s), which from its nature or context is done for, or in connection

with, political, religious, ideological, ethnic or similar purposes or reasons including the intention to influence any government and/or to put the public, or any section of the public, in fear.

8.66 Tested

Tested means a method of authenticating the contents of a communication by affixing thereto a valid test key which has been exchanged between the insured and a customer, 'Automated clearing house', 'Central securities depository', another financial institution or between offices of the insured for the purpose of protecting the integrity of the communication in the ordinary course of providing the financial service.

8.67 Trading

Trading includes but is not limited to actual or purported purchase, sale or exchange transactions, repurchase agreements or other dealings concerning securities, metals, commodities, funds, currencies, foreign exchange and interest therein, and the like including but not limited to any form of derivatives.

8.68 Ultimate net loss

Ultimate net loss means the actual net loss to the insured after making proper deduction for all recoveries including but not limited to payments against principal, interest and commissions and salvages (but deduction shall not be made for the amount of the deductibles which may be recoverable on specific insurance) and shall exclude all expenses for salaried employees of the insured incurred in the investigation or adjustment of claims, actions or proceedings, unless specially agreed by QBE but nothing in this Policy shall be construed to mean that loss is not recoverable hereunder until the ultimate net loss has been ascertained.

8.69 Uncertificated security

Uncertificated security means a share, participation or other interest in property or of an enterprise of the issuer or an obligation of the issuer which:

- (a) is a type commonly dealt in upon securities exchanges or markets; and
- (b) is either one of a class or series or by its terms divisible into a class or series of shares, participations, interest or obligations; and
 - (i) is not represented by an instrument; or
 - (ii) is part of a master depository note and the paper certificates are immobilised; or
 - (iii) represents a paper certificate that has been surrendered by a financial institution and which paper certificate has been combined into a master depository note and the paper certificates are immobilised;

and such security is shown as an electronic entry on the account of the transferor, pledger or pledgee on the books of a 'Central securities depository'.

8.70 Withdrawal order

Withdrawal order means a non-negotiable instrument, other than an instruction, signed by a customer of the insured authorising the insured to debit the customer's account in the amount of funds stated herein.

