



HEARTWARE LIMITED

REGULATION S – “FOR” FINANCIAL PRODUCTS – US PERSONS – TRADING RESTRICTIONS & PROCESSES

This ASX Circular contains important information that should be read carefully by Market Participants and disseminated to all advisors and SEATS operators. This ASX Circular deals expressly with the securities of HeartWare Limited, the trading processes and restrictions applying to its securities.

It is expected that HeartWare Limited's ordinary fully paid shares will commence trading on ASX on Monday, 31 January 2005.

The following class of securities has been included in Schedule 1 of the ASTC Settlement Rules as an FOR Financial Product (i.e. securities subject to Foreign Ownership Restrictions), to be effective from 31 January 2005, refer also ASTC Bulletin P2005/020.

Issuer	Financial Product	ASX Code
HeartWare Limited	Fully paid ordinary shares – US Prohibited	HTW

HeartWare Limited is incorporated in Australia and its ordinary shares will be CHES Approved. CDIs will **not** be issued over the ordinary shares.

HeartWare Limited's securities are being offered and will be traded on the ASX market in reliance on the safe harbour provisions of Regulation S under the US Securities Act and the no-action letter dated 7 January 2000 given to ASX by the staff of the United States Securities and Exchange Commission (SEC). The no action letter imposes certain conditions that apply to quotation and trading of HeartWare Limited's securities on the ASX market. These conditions include the application of the Foreign Ownership Restriction provisions to the securities of HeartWare Limited.

The following conditions apply to HeartWare Limited's securities as FOR Financial Products:

Foreign Person

A “Foreign Person” is a “US Person” as that term is described in Regulation S. That definition is included as an attachment to this circular.

Level of Foreign Ownership

The relevant foreign ownership level is **zero**.



This means that no US person, as that term is defined, may purchase or hold HeartWare Limited shares.

Because the Foreign Ownership Percentage Level is zero, some of the usual elements of FOR Financial Products **do not** apply, that is:

- the securities cannot have the status of “Confirmed FOR Financial Products”; and
- Market Participants cannot report trades in the securities on the basis “Foreign to Foreign” or attempt to effect a “Foreign to Foreign Allocation” in CHES.

Note that the definition of foreign person for HeartWare Limited is different to that which applies to Telstra, which also has FOR status, and the “limit” for HeartWare Limited is zero as distinct from the percentage permitted for Telstra.

Enhancements have been made to the security description on SEATS to advise Market Participants that US persons are prohibited from holding the security (FOR/Reg S status). The notation in full appearing after the security code is “**FORUS**”.

The notation denotes the following:

FOR - the security is a security with a Foreign Ownership Restriction; and

US - the Foreign Ownership Restriction prohibits US Persons from purchasing or holding the security.

More detailed notations appear in information provided to third party providers and the security-specific parameter. This is:

US PROHIBITED.

No Market Participant may execute a transaction in HeartWare Limited securities if the Market Participant has knowledge that the buyer is a US person (as that term is defined) or is acting for the account or benefit of a US person. Market Participants must also make all reasonable efforts to ascertain whether a would-be purchaser is a US person or is acting for the account or benefit of a US person, and they must implement measures designed to assure reasonable compliance with this requirement.

Where a holder of HeartWare Limited securities is determined by the Issuer to be a US person, they will be the subject of immediate divestment action by HeartWare Limited. Where a Market Participant has not made all reasonable enquiries and/or implemented measures to assure compliance, they may be liable for any consequential loss and the subject of disciplinary action for breach of the ASX Market Rules and ASTC Settlement Rules.

ASX Contact:	Andrew Black
Business Unit	Companies Sydney
Ext.No:	7899
Date:	27 January 2005



13 January 2005

**Australian Stock Exchange Limited
Exchange Centre
20 Bridge Street
SYDNEY NSW 2000**

To ASX/ASTC

Application for inclusion of Financial Products as FOR Financial Products

This letter is prepared as part of the application by the Company to ASX that ASTC include a class of its Financial Products in Schedule 1 of ASTC Settlement Rules as Foreign Ownership Restriction (**FOR**) Financial Products.

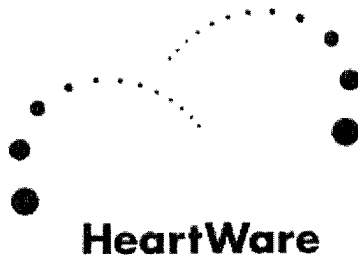
The following definition of "Foreign Person" is provided in respect of the Company to assist Participants in "flagging" Holder Records for the purposes of the ASTC Settlement Rules.

A "Foreign Person" is defined as ownership by an US person. "US person" is defined in Rule 902 of Regulation S of the US Securities Act of 1933, as amended, provided below:

1. "U.S. person" means:
 - i. Any natural person resident in the United States;
 - ii. Any partnership or corporation organized or incorporated under the laws of the United States;
 - iii. Any estate of which any executor or administrator is a U.S. person;
 - iv. Any trust of which any trustee is a U.S. person;
 - v. Any agency or branch of a foreign entity located in the United States;
 - vi. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. person;
 - vii. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; and
 - viii. Any partnership or corporation if:
 - A. Organized or incorporated under the laws of any foreign jurisdiction; and
 - B. Formed by a U.S. person principally for the purpose of investing in securities not registered under the Act, unless it is organized or incorporated, and owned, by accredited investors (as defined in Rule 501(a)) who are not natural persons, estates or trusts.

HeartWare Limited
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SYDNEY NSW 2000
AUSTRALIA



2. The following are not "U.S. persons":
- i. Any discretionary account or similar account (other than an estate or trust) held for the benefit or account of a non-U.S. person by a dealer or other professional fiduciary organized, incorporated, or (if an individual) resident in the United States;
 - ii. Any estate of which any professional fiduciary acting as executor or administrator is a U.S. person if:
 - A. An executor or administrator of the estate who is not a U.S. person has sole or shared investment discretion with respect to the assets of the estate; and
 - B. The estate is governed by foreign law;
 - iii. Any trust of which any professional fiduciary acting as trustee is a U.S. person, if a trustee who is not a U.S. person has sole or shared investment discretion with respect to the trust assets, and no beneficiary of the trust (and no settlor if the trust is revocable) is a U.S. person;
 - iv. An employee benefit plan established and administered in accordance with the law of a country other than the United States and customary practices and documentation of such country;
 - v. Any agency or branch of a U.S. person located outside the United States if:
 - A. The agency or branch operates for valid business reasons; and
 - B. The agency or branch is engaged in the business of insurance or banking and is subject to substantive insurance or banking regulation, respectively, in the jurisdiction where located; and
 - vi. The International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the United Nations, and their agencies, affiliates and pension plans, and any other similar international organizations, their agencies, affiliates and pension plans.

Please do not hesitate to contact the undersigned if you have any queries.

Yours faithfully

Stuart McConchie
Company Secretary
HeartWare Limited

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