

## UPDATE 26

April 2009

### Environmental Products

In conjunction with the AFMA Environmental Products Committee, Johnson Winter & Slattery has made a number of changes to Part 3.11 of the "Guide to Australian OTC Transactions" and the Spot Contract for Environmental Products

#### Addition of new schemes:

In both the *Guide* and Spot Contract, material has been added on:

- Victorian Energy Efficiency Certificates or VEECs being certificates created under the Victorian Energy Efficiency Target Act 2007 (VIC); and
- Victorian Renewable Energy Certificates or VRECs being certificates created under the Victorian Renewable Energy Act 2006 (VIC).

The explanatory notes on "'Derivatives' and treatment under AASB 139/IAS 39" relating to the Spot Contract and the ISDA-based material have also been updated.

### 3.11 Environmental Products (EP)

3.11.2.20 of the *Guide* previously contained "Clauses for Part 5 of the Schedule to an ISDA Master Agreement". This material has been deleted and most of those clauses have been incorporated into the *Australian Environmental Products Addendum*, which has been further updated for the new schemes. The March 2009 version is at 3.11.4.10. The first section of the old 3.11.2.20 – the "incorporation" clauses – are now found in the second paragraph of each of the confirmations. The old 3.11.2.20, notated to show to where the various clauses have been moved, can be downloaded at 3.11.3.10.

Commentary on, and a sample confirmation for, options on EP have been added at 3.11.3.30 and 3.11.4.30 respectively. The sample confirmation for a forward transaction is at 3.11.4.20.

The forward confirmation now deems Physical Settlement to have been selected unless the Seller elects otherwise by notice in writing at least two days before the Settlement Date. There is thus a risk that a failure to deliver will constitute an Event of Default which could trigger termination of all open transactions. See section 3.11.3.10(g) for more information.