



ASX Listings Compliance Activities Report

1 October 2021 - 31 December 2021

Background

As the licensed operator of a listing market, ASX is obliged under the Corporations Act 2001 (Cth)¹ to have adequate arrangements for monitoring and enforcing compliance with its listing rules. Those arrangements are administered by the ASX Listings Compliance team.

The ASX Listings Compliance team also assesses whether applications for admission to the ASX official list conform to the requirements of the listing rules and processes applications for waivers of the ASX listing rules.

ASX's listing rules serve the interests of listed entities and investors, both of whom have a vital interest in maintaining the reputation and integrity of the ASX market and ensuring that it is internationally competitive and facilitates efficient capital raising.

ASX has an absolute discretion concerning the admission of an entity to the official list and the quotation of its securities. ASX also has broad discretions under the listing rules whether to require or waive compliance with the listing rules in a particular case, to remove an entity from the official list and to suspend its securities from quotation.

In exercising these discretions, ASX takes into account the principles on which the listing rules are based (as set out in the introduction to the listing rules) and the imperative of maintaining the reputation, integrity and efficiency of the ASX market.

To enhance transparency and assist stakeholders to understand how ASX interprets and applies the listing rules, ASX publishes on a quarterly basis² high level reasons why it has indicated an intention to decline certain listing applications³ and why it has rejected certain waiver applications, as well as information about some of its other activities monitoring and enforcing compliance with the listing rules.

Listing applications

During the period of this report, ASX admitted 70 entities to the ASX official list and quoted their securities and reinstated 5 entities to quotation following a backdoor listing. ASX indicated an intention to decline 7 applications seeking admission to the ASX official list and 1 application seeking to pursue a backdoor listing for the reasons summarised in the table below.

The table below includes:

- applications for admission to the official list that ASX has indicated an intention to decline;
- requests to approve a notice of meeting containing a resolution of security holders seeking approval for a backdoor listing transaction that ASX has declined to approve on the basis that ASX is likely to reject the entity's application for readmission to the official list in due course; and
- requests for in-principle advice on the suitability of an entity for listing where ASX has indicated that it is likely to determine that the entity is not suitable for listing.

Entity	Reasons for ASX notifying an intention to decline
Entity 01	ASX had concerns about the early stage of the target's business and unproven business model, especially its limited operating and financial history, minimal revenues generated to date, and small number of customer contracts generating any recurring revenue. In addition, the entity did not intend to appoint a lead manager or raise additional funds as part of its proposed readmission.

¹ Referred to in this publication as the 'Corporations Act'. Unless otherwise indicated, references in this publication to a section of an Act are to a section of the Corporations Act.

² This information is published by ASX in performance of its obligations under the Corporations Act and in particular sections 792A(a) and (c). ASX also publishes details of waivers granted by ASX on the ASX website twice monthly in the form of a waivers register.

³ It should be noted that this is a point-in-time publication reflecting applications to be admitted to the official list as an ASX Listing or ASX Foreign Exempt Listing, where ASX has indicated during the period of this report that it intends to decline the application. Some of the entities mentioned in this or in earlier editions of this publication whose listing applications ASX indicated an intention to decline may have since restructured their proposals to address ASX's concerns. It should also be noted that this publication does not include data on ASX Debt Listings.

Entity	Reasons for ASX notifying an intention to decline
Entity 02	ASX had concerns about the early stage of the entity's operations, especially the relatively low level of expenditure of offer proceeds allocated to the advancement and commercialisation of its main product, the fact that no regulatory approvals had been obtained in Australia and the absence of any target or expected dates for submitting its products to an overseas regulatory body for approval.
Entity 03	ASX had concerns about the pending and uncertain environmental authorisation in respect of the entity's sole asset.
Entity 04	ASX had concerns that the entity was undercapitalised and had not allowed for additional expenses in its use of funds schedule over and above 2021 historical expenses. ASX was also concerned about the fees proposed to be paid to lead managers.
Entity 05	ASX had concerns about the early stage of the entity's product having regard to the limited revenue to date and the fact that the entity's entire revenue was generated through a re-seller agreement. In addition, all the end users of the entity's products were based in emerging markets, noting ASX's guidance on concerns in relation to the regulatory environment and business ethics in emerging markets.
Entity 06	ASX was concerned that the entity's accounts were not prepared in accordance with International Financial Reporting Standards (IFRS) despite it being based in the European Union. The entity did not appear to generate any material profit, cashflows, working capital or hold substantive assets despite generating large revenues in 2019 and 2020, and had indicated that it only intended to operate in jurisdictions where it did not require a licence to operate its business. Further, its wholly owned subsidiary was audited in a low disclosure jurisdiction.
Entity 07	ASX had concerns about the entity's capital structure and capital history, in particular the proportion of certain securities issued for nominal consideration to related parties who were proposed to be separately compensated for assets sold to the entity in connection with its proposed listing.
Entity 08	ASX had concerns about the early stage of the entity's proposed business operations and its limited operating history and level of operations to date, including that a relatively low amount of the entity's funds had been spent on operational expenses for its main operation.

Waiver applications

During the period of this report, ASX granted 152 waivers and declined 5 waivers of the listing rules. ASX's reasons for declining those waivers are summarised in the table below.

ASX LR	Reason for declining waiver
4.5.1	Listing rule 4.5.1 requires entities to provide ASX audited financial information within 3 months of the entity's financial year end for release to the market. ASX granted a class waiver in 2021 to give effect to an ASIC relief instrument extending that timeframe. The ASX class waiver imposed two conditions which the entity did not comply with. ASX declined to grant a waiver in circumstances where the conditions of the class waiver were not met.
6.23.3	Listing Rule 6.23.3 stipulates that changes to option terms which have the effect of reducing the exercise price, increasing the exercise period or increasing the number of securities received on exercise is prohibited. The entity had sought a waiver to amend the terms of its quoted options by extending their expiry date by 2 years. The options represented approximately 9.1% of the issued

ASX LR	Reason for declining waiver
	capital on a fully diluted basis and thus a significant portion of the issued capital and would therefore undermine the integrity of Listing rule 6.23.3.
7.5.4	Listing rule 7.5 sets out the information required to be included in a notice of meeting relating to the approval of an agreement to issue securities. In particular, Listing rule 7.5.4 requires that if the securities have not yet been issued, the date by which the entity will issue the securities must be no later than three months after the date of the meeting. ASX declined to grant a waiver which would have had the effect that the entity could issue securities at any time in the future.
10.1	The entity proposed to conduct an equal access scheme with a scale back mechanism that was designed to favour smaller shareholders. ASX declined to grant a waiver of Listing rule 10.1 in relation to the participation of related parties and substantial (10%+) holders on the basis that the buy-back was proposed to be conducted at a fixed price and the entity's securities were not liquid, meaning that a shift in value to a related party or substantial shareholder was possible.
14.7	Listing rule 14.7 stipulates that if a notice of meeting states that an entity will do something that the Listing rules require it to do, the entity must do that thing. Shareholder approval was received under Listing rules 7.3.4 and 10.11 to issue shares in lieu of services provided, fees and cash. The entity did not intend to issue those securities within the required timeframe as required by the relevant Listing rules. ASX declined to grant a waiver to permit the issue of securities outside of the required timeframe.

Enforcement letters

During the period of this report, ASX issued the following enforcement letters:

Type	Number of letters
Price query ⁴	61
Aware ⁵	19
Show cause ⁶	0
ASIC referral ⁷	4

Listed@ASX compliance updates

⁴ ASX will generally issue a 'price query letter' when it detects abnormal trading in an entity's securities and, in its discussion with the entity about the matter, the entity tells ASX that it is not aware of any information which has not been announced to the market and which could explain the abnormal trading. For further information about price query letters, see section 8.3 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

⁵ ASX will typically issue an 'aware letter' to the entity when it has concerns about whether an entity has disclosed market sensitive information at the time it should have under listing rule 3.1. The letter will ask when the entity became aware of the information in question and test when it should have been disclosed under the listing rule 3.1. For further information about aware letters, see section 8.4 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

⁶ A 'show cause letter' is a letter initiating a process to terminate an entity's admission to the official list under listing rule 17.12. It will outline the reasons why ASX is proposing to terminate the entity's admission to the official list and ask it to 'show cause' why it should not be removed from the official list.

⁷ If ASX suspects that an entity has committed a significant contravention of the listings rules, or that a listed entity or any other person (such as a director, secretary or other officer of a listed entity) has committed a significant contravention of the Corporations Act, it is required under section 792B(2)(c) of the Corporations Act to give a notice to ASIC with details of the contravention. The purpose of the notice is so that ASIC can then consider what enforcement action, if any, it may wish to take in relation to the suspected contravention.



Listed@ASX Compliance Updates are free email alerts sent to listed entities to advise of market developments, including proposed changes to ASX listing rules and guidance notes, and to provide guidance on topical or emerging compliance issues. You can subscribe to and view *Listed@ASX Compliance Updates* [here](#) or download the free Listed@ASX app from the [Apple app](#) store and [Google Play](#).

During the period of this report, ASX released the following Listed@ASX Compliance Updates:

Update	Summary
09/21	Published on 18 October 2021 covering: <ul style="list-style-type: none">• reminder to lodge, if applicable, a jobkeeper payment disclosure as a standalone announcement;• revisions to Guidance Notes 7 and 11;• release of the reporting calendar for calendar year 2022; and• ASX Online access audit to remove inactive and duplicated users.
10/21	Published on 16 November 2021 covering: <ul style="list-style-type: none">• the publication of a new ASX Online Forms FAQ;• consultation response to the proposed changes to oil and gas reporting requirements;• updates to Guidance Notes 17 and 23;• CHES Replacement consultation on tranche 3; and• announcing launch date for electronic CHES statements and notifications in December 2021.
11/21	Published on 16 December 2021 covering: <ul style="list-style-type: none">• guidance on releasing announcement on MAP regarding patent applications;• confirming the go-live of electronic CHES statements and notifications;• consultation on potential changes to GICS structure; and• reminder of upcoming periodic report deadlines.
