



ASX Listings Compliance Activities Report

1 April 2022 - 30 June 2022

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 35 entities to the ASX official list and quoted their securities and reinstated 2 entities to quotation following a backdoor listing. ASX indicated an intention to decline 2 applications seeking admission to the ASX official list 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 nature of the entity's business operations (in particular the minimal revenue it had generated) and that a lead manager had not been appointed. ASX was also concerned that the capital structure did not appear to be finalised and that the proposed use of funds did not appear to satisfy the application of listing rule 1.3.2(b). Additionally, a number of potential conflicts of interests were embedded in the entity's business arrangements.

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 that the entity did not hold an interest in any project and was unlikely to at the time of listing. The entity did not control the projects it proposed to acquire an interest in and only one of the projects held any granted tenements.

Waiver applications

During the period of this report, ASX granted 90 waivers and declined 7 waivers of the listing rules. ASX's reasons for declining those waivers are summarised in the table below.

ASX LR	Reason for declining waiver
6.23.3	The entity had sought a waiver from Listing Rule 6.23.3 to enable it to amend the terms of certain options granted to directors by extending their expiry dates for a period of 12 months. There did not appear to be a compelling reason to justify the grant of the requested waiver.
7.3.4 3 separate waivers	<p>In the first case, the entity entered into an agreement for a proposed convertible note and equity facility ("Funding Facilities") for general corporate and working capital purposes. In connection with the Funding Facilities, the entity was seeking a waiver from listing rule 7.3.4 to allow the entity to issue convertible notes and shares under the Funding Facilities within 24 months (instead of three months) of shareholders approving the issue at the upcoming general meeting. The requested waiver was not granted because there was no clear and compelling commercial reason for the waiver.</p> <p>In the second case, the entity was proposing to issue shares in consideration for the acquisition of an exploration licence, an underground mine loader, and technical information relating to a mining project. The consideration shares were intended to be issued either within 12 months or upon completion of the conditions precedent, which included the entity re-complying with Chapters 1 and 2 of the Listing Rules. The waiver was not granted on the basis there was no compelling commercial reason to allow the consideration shares to be issued outside the three month timeline.</p> <p>In the third case, the entity intended to undertake an initial public offering ('IPO') on a significant foreign securities exchange. The entity intended to seek shareholder approval at its upcoming annual general meeting ('AGM') to issue shares and warrants (the 'Issue') in connection with the IPO within 12 months following the AGM. A waiver to allow the Issue to occur later than three months from the date of the AGM was not granted on the basis that there was no clear and compelling reason to grant such a waiver and any delay in the Issue may be within the control of the entity. Further, the requested extension timeframe of 12 months (or 6 months in the alternative) was not appropriate in the case of an initial public offering as the entity's circumstances may have materially changed since shareholder approval was sought at the AGM.</p>
9.1	ASX declined to grant cash formula relief in circumstances where a restructure had occurred subsequent to shares being acquired for cash. ASX was not satisfied that there had been no leakage of funds or assets between when the shares were acquired and the restructure.
9.1(d), 9.1(e) 2 separate waivers	<p>The entity sought waivers from Listing Rule 9.1(d) and 9.1(e) to enable the transfer of escrowed shares to eligible shareholders by way of a pro rata in specie distribution.</p> <p>The proposed transfer involved a change in beneficial interests of the escrowed shares and the entity's circumstances did not fall within any of the "exceptional circumstances" discussed in section 9.3 of Guidance Note 11. The waivers were not granted.</p>

Enforcement letters

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

Type	Number of letters
Price query ⁴	41
Aware ⁵	20
Show cause ⁶	0
ASIC referral ⁷	1

Listed@ASX compliance updates

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
03/22	Published on 21 April 2022 covering: <ul style="list-style-type: none"> ASX's consultation paper on proposed enhancements to the ASX Listing Rules; and Listing fee changes for FY23.
04/22	Published on 25 May 2022 covering: <ul style="list-style-type: none"> Changes to oil and gas reporting requirements effective 1 July 2022.
05/22	Published on 24 June 2022 covering: <ul style="list-style-type: none"> ASX's Listing Rule Compliance Course.

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.