



ASX Listings Compliance Activities Report

1 April 2024 - 30 June 2024

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 refused or indicated an intention to refuse 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 10 entities to the ASX official list and quoted their securities and reinstated 2 entity to quotation following a backdoor listing. ASX refused or indicated that it would be likely to refuse 3 application for the reasons summarised in the table below.

The table below includes, as applicable:

- A. applications for admission that ASX has refused;
- B. applications for admission that ASX has indicated an intention to refuse;
- C. 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 refuse the entity's application for readmission in due course; and
- D. requests for in-principle advice on the suitability of an entity for listing where ASX has indicated that it is likely to refuse the entity's application for admission if the entity proceeds to make a formal application.

| Refusal type | Summary of reasons |
|--------------|---|
| D | ASX had concerns that the majority of the entity's revenue was non-cash (unrealised gains on investments) and it did not earn most of its revenue from its proposed main undertaking. ASX was concerned that the entity's business model was vague or ill-defined and that its cash revenues were insufficient to demonstrate that its business operations had sufficient substance to support listing. |

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.

| Refusal type | Summary of reasons |
|--------------|--|
| D | ASX had concerns that the entity's main business operations, its executive management and its controlling shareholder were located in emerging or developing markets. The entity did not have a satisfactory track record of listing on ASX or a peer exchange. The entity's two executive directors did not have any ASX board experience. |
| D | ASX had concerns about material inconsistencies between the listing application received from the entity and a prior listing application received from the same entity. The inconsistencies could not be explained by reference to changed circumstances and it appeared that the entity had provided ASX with incomplete and inaccurate information. ASX requires entities submitting an application for admission to the official list to provide accurate and complete information in order to perform its license obligations. |

Waiver applications

During the period of this report, ASX granted 91 waivers and declined 14 waivers of the listing rules. ASX's reasons for declining those waivers are summarised in the table below.

| Rule Number | Reason for not granting waiver |
|---------------------------------|--|
| 4.5.1 | The entity was the subject of a change of control transaction and would be delisted shortly after the due date for lodgement of the entity's annual financial documents. The entity had applied to ASIC for an extension of the Corporations Act due date. The due date for lodgement under listing rule 4.5.1 is independent from the Corporations Act due date and still applies even if an entity has obtained relief from ASIC to extend the Corporations Act due date. The waiver was not granted. |
| 6.8 and 6.9 | The entity appeared to have sought the waivers for its own convenience and had not pursued other available alternatives that did not require waivers. |
| 6.20, 6.23.3, 6.23.4 and 7.26.2 | <p>The entity was incorporated in Canada and listed on the TSX-V. The entity sought waivers that were similar to waivers that had previously been granted to other entities seeking a dual listing on ASX and TSX-V.</p> <p>The waivers from listing rules 6.20, 6.23.3 and 6.23.4 were not granted because there was no impediment to the entity conducting its affairs and exercising its discretions under the terms of its existing options and warrants in a manner that was consistent with the listing rules.</p> <p>The waiver from listing rule 7.26.2 waiver was not granted because the entity did not have any partly-paid shares on issue and had undertaken not to issue any partly paid shares in the future.</p> |
| 6.23.3 3 separate waivers | <p>In two cases, waivers were sought in relation to proposed changes affecting options or performance rights that had been issued with security holder approval under listing rule 10.14. The possibility of the proposed changes had not been specifically and prominently disclosed in the notices of meeting containing the original listing rule 10.14 resolutions. The waivers were not granted because it would undermine the earlier listing rule 10.14 approvals.</p> <p>In the third case, the entity sought a waiver to extend the expiry period of warrants held by an associate of a director of the entity. The waiver was not granted as no compelling reason was provided for granting the waiver and it did not appear that the entity would be subject to any commercial detriment or other disadvantage if the waiver was not granted.</p> |
| 7.3.4 | The entity wished to seek security holder approval to amend a complicated loan facility that involved an agreement to issue securities more than three months after obtaining security holder |

approval. The waiver was not granted as no reason was put forward for the delay in issuing the securities other than the entity's convenience.

| | |
|------|--|
| 10.1 | The entity (ListCo) sought a waiver to permit it to purchase shares in a company (Target) from a counterparty who held approximately 40% of the shares in ListCo (10.1 Party), without obtaining approval from the security holders of ListCo. The 10.1 Party held approximately 50% of the shares in the Target. The 10.1 Party was represented by a director on the board of ListCo and the Target, and there was another common director on the board of ListCo and the Target. The waiver was not granted because ListCo had not demonstrated that there was no reasonable possibility of value shifting through the proposed transaction. |
| 10.7 | The entity proposed to acquire a classified asset from another listed entity (Vendor) using the entity's securities as consideration. The Vendor was a substantial (10%) holder in the entity and intended to immediately distribute the consideration securities in-specie to the Vendor's security holders. The entity sought a waiver from the requirement that the consideration securities must be restricted securities. ASX did not consider it appropriate to grant the waiver in these circumstances. |
| 14.7 | The entity had obtained security holder approval under listing rule 7.1 to issue securities to sophisticated and institutional investors within three months of the date of the security holder meeting. Due to unfavourable market conditions and the entity's desire for additional time to review potential projects for acquisition, the securities were not issued within the three month period. ASX was not satisfied that the reasons for delay justified departure from the rule. |

Enforcement letters

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

| Type | Number of letters |
|----------------------------|-------------------|
| Price query ⁴ | 59 |
| Aware ⁵ | 36 |
| Show cause ⁶ | 0 |
| ASIC referral ⁷ | 5 |

Censures

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.



During the period, ASX censured Lion One Metals Limited (ASX:LLO) for breach of listing rule 7.1. The censure notice was published on the market announcements platform on 7 June 2024 and can be accessed [here](#).

Listed@ASX compliance updates

Listed@ASX Compliance Updates are free email alerts sent to subscribers 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](#).

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

| Update | Summary |
|--------|---|
| 05/24 | <p>Published on 1 May 2024 covering:</p> <ul style="list-style-type: none">• A reminder about the consultation process for the proposed fifth edition of the 'Corporate Governance Principles and Recommendations' released by the ASX Corporate Governance Council.• The intention to start publishing a list of long term suspended entities every quarter. A long term suspended entity is an entity whose securities have been suspended for more than three months.• A notification that from end of May 2024, Canadian and US markets will utilise a T+1 settlement timeframe. Corporate actions by dual listed entities with a full ASX listing should continue to follow the timeframes outlined in Appendices 6A and 7A of the ASX listing rules so that the record date is the same in all markets.• The publication of a white paper on 'Considerations for accelerating cash equities settlement in Australia to T+1'.• The change of ASX annual and subsequent listing fees for FY25 to come into effect on 1 July 2024. |
| 06/24 | <p>Published on 16 May 2024 covering:</p> <ul style="list-style-type: none">• A new data breach example in Guidance Note 8 <i>Continuous Disclosure: Listings Rules 3.1 – 3.1B</i>.• Guidance on how ASX expects an entity to comply with listing rule 14.3. |
| 07/24 | <p>Published on 25 June 2024 covering:</p> <ul style="list-style-type: none">• A reminder that a deferred consideration agreement under which an entity must pay cash or newly issued securities will count towards variable 'C' in listing rule 7.1 and will reduce the entity's placement capacity.• A note that ASX Online passwords expire every 45 days unless changed earlier. If an ASX Online user is unable to access their account to release a price sensitive announcement under listing rule 3.1 for any reason, they should immediately contact their Listings Adviser to seek a trading halt until the announcement can be made.• A reminder that the term 'over-subscribed' means that an applicant applied and paid for more securities than were ultimately allocated to them, with the excess funds ultimately being remitted to them. The term over-subscribed should not be used if that is not what occurred.• A reminder that ASX will start publishing a list of long term suspended entities every quarter. |
