



ASX Listings Compliance Activities Report

1 July 2024 - 30 September 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 8 entities to the ASX official list and quoted their securities and reinstated the securities of 2 entities to quotation following a backdoor listing. ASX did not refuse or indicate that it would be likely to refuse any listing applications.

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.

Waiver applications

During the period of this report, ASX granted 121 waivers and declined 17 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
4.3B 4.5.1 4.7.1	The entity was in voluntary administration and its securities had been suspended from quotation. The entity had sought periodic reporting relief from ASIC. ASX refused to waive the corresponding periodic reporting requirements under the Listing Rules on the basis that these requirements are separate from the entity's Corporations Act obligations and the entity's obligations under the Listing Rules continue while its securities are suspended from quotation.
5.3 5.5	The entity was an exploration entity incorporated in Australia that had Canadian operations. The entity had a secondary listing in Canada. The entity sought waivers to enable it to comply with Canadian quarterly reporting requirements instead of ASX's quarterly reporting requirements. The waivers were refused because the entity was Australian incorporated and its Canadian listing was its secondary listing.
6.23 2 separate waivers	<p>In the first case, ASX refused to grant a waiver that would have permitted the entity to change a performance milestone that had been disclosed in a prospectus as a condition of a Listing Rule 6.1 confirmation. The waiver was refused on the basis that the change would undermine the original confirmation.</p> <p>In the second case, ASX refused to grant a waiver that would have permitted the entity to retrospectively change a performance milestone in circumstances where the deadline for meeting the milestone had already passed at the time when the waiver was sought.</p>
7.1 10.11 10.14	The entity was listed on both ASX and a significant US exchange. The entity sought waivers to enable it to comply only with the US exchange's requirements in relation to issues of securities. The waiver was refused because the entity had not been listed on the US exchange for a sufficient period to demonstrate an adequate track record of compliance with the US exchange's requirements.
7.3.4 2 separate waivers	<p>In the first case, ASX refused to grant the waiver because it related to deferred consideration that would be issued after a period of time without any other conditions or performance milestones needing to be satisfied. There was no compelling reason why the securities could not be issued sooner in compliance with the rule.</p> <p>In the second case, the entity intended to obtain security holder approval for a loan facility. The entity sought a waiver to permit it to have flexibility to issue securities up to 42 months after it elected to drawdown under the loan facility. The number of securities to be issued would be based on a discounted volume weighted average price calculated at the time of issue. There was no reasonable certainty about the impact on the entity's capital structure and the future issue could be highly dilutive. The waiver was refused.</p>
10.1 2 separate waivers	In the first case, the entity proposed to dispose of certain tangible and intangible assets to an entity controlled by a former director. The assets had a de minimus value in the entity's most recent audited accounts. As part consideration for the disposal, the former director was assuming debts that had a significantly higher value than the carrying value of the assets. This was not consistent with the assets having a de minimus value (which was the basis upon which the waiver was sought) and ASX also had concerns about the former director's business relationships with the previous owners of the assets. In all the circumstances, ASX was not able to conclude that there was no risk of a possible transfer of value to the former director and the waiver was refused.

In the second case, the entity sought a waiver to grant security over a substantial asset to a Listing Rule 10.1 party on terms similar to the terms contemplated in section 8.4 of Guidance Note 8. Although ASX would usually grant the waiver, in this case the 10.1 party would also be issued warrants in connection with the granting of the security. The waiver was refused on the basis that the granting of the security and the issue of the warrants were inextricably linked and security holders should have the benefit of an independent expert's report.

14.7
2 separate
waivers

In the first case, the entity sought a waiver to permit it to issue securities to a Listing Rule 10.11 party more than 1 month after the approval. The entity wished to have more time to determine a possible adjustment to the number of securities to be issued to the 10.11 party having regard to a future issue of securities to a third party that had not yet occurred. The waiver was refused because there was no impediment to the entity issuing the approved securities in the required timeframe.

In the second case, the entity sought a waiver to permit it to issue securities more than 3 months after a Listing Rule 7.1 approval. The extension was sought for an additional 8 months to provide additional time for the granting of an exploration licence on which the issue was conditional. The waiver was refused because the delay in the grant of the exploration licence had not been affected by unforeseen circumstances outside of the control of the entity and the reasons provided did not justify a departure from the rule.

17.4

The entity was running an on-market buy-back program at the same time as it was subject to a takeover bid that reached compulsory acquisition. The entity sought a waiver from Listing Rule 17.4 in order to delay the suspension of its securities from quotation until the end of the buy-back period. The waiver was refused because, on balance, ASX considered that the market would be more orderly if there was certainty in the compulsory acquisition process.

Enforcement letters

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

Type	Number of letters
Price query ⁴	42
Aware ⁵	41
Show cause ⁶	1
ASIC referral ⁷	8

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.

Censures

During the period of this report, ASX did not censure any entities.

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
08/24	Published on 25 July 2024 covering: <ul style="list-style-type: none"> • General guidelines for the content of investor presentations and specific guidelines for investor presentations by listed mining entities. • Specific situations where ASX may suspend an entity’s securities from quotation under Listing Rule 17.3.2. • The availability of the Market Announcements Office to assist with ASX Online issues that arise outside of normal business hours.
09/24	Published on 12 August 2024 covering: <ul style="list-style-type: none"> • Education sessions on a draft consultation version of the JORC code. • Timing and order of lodgement of periodic reports. • Allowing sufficient time for ASX to review draft notices of AGM. • Listed Entities Survey 2024. ASX received feedback from over 500 respondents who represented about one third of the entities listed on ASX. We were very grateful for this level of participation.
10/24	Published on 13 September 2024 covering: <ul style="list-style-type: none"> • Notice of meeting and other meeting materials. This update identified a number of common issues that ASX encounters when reviewing notices of meeting. • Reminder of the additional information required to be included in annual reports under Listing Rules 4.10.1 to 4.10.22. • Closing times for the ASX Market Announcements Office.
