

Ms Diane Lewis  
Regulatory & Public Policy  
ASX Limited  
20 Bridge Street  
Sydney  
NSW 2000  
AUSTRALIA

**By email:** [regulatorypolicy@asx.com.au](mailto:regulatorypolicy@asx.com.au)

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Dear Ms Lewis

**SUBMISSION ON ASX'S CONSULTATION PAPER ON FACILITATING DUAL LISTINGS BY NEW ZEALAND COMPANIES**

Orion Health welcomes the opportunity to comment on ASX's proposed changes to its Foreign Exempt Listing Rules as set out in the consultation documentation dated 11 March 2015 ("**Consultation Paper**"). Orion Health is extremely supportive of any moves to help facilitate dual listings by reducing the administrative burden companies face.

**Orion Health background**

Established 21 years ago, Orion Health is today a highly regarded vendor in the global healthcare software industry, with over 450 direct customers and over 1,100 employees. Orion Health is a global provider of healthcare software, delivered across our three solution groups – Intelligent Integration, Smarter Hospitals and Healthier Populations. Orion Health was listed on the main market of both the NZX and ASX in November 2014.

**Feedback on the consultation paper**

ASX has proposed in its Consultation Paper to remove certain restrictions on an NZX listed company by allowing it to list on the ASX as an ASX Foreign Exempt Listing if certain criteria are met. In essence, it is proposed that certain companies listed on the NZX can be classified as an ASX Foreign Exempt Listing without needing to comply with the profits, net tangible assets and shareholder spread admission criteria. These extremely high admission criteria prevented Orion Health from listing as an ASX Foreign Exempt Listing. Accordingly, the decision to dual list was looked at far more cautiously as we have been subject to increased

regulatory costs and administrative burden by being listed on the ASX. Orion Health agrees with the sentiment of the Consultation Paper that greater recognition should be given to the close economic relationship between Australia and New Zealand, which has been advanced under the Australia-New Zealand Closer Economic Relations Trade Agreement over the last 30 years. Reducing the ASX Foreign Exempt Listing admission criteria for NZX listed companies respects the effectiveness of the NZX Listing Rules and recognises that the primary regulatory role should lie with the home exchange.

If the proposed changes are adopted, an NZX listed company that completes an ASX Foreign Exempt Listing will be only required to comply with the NZX Listing Rules, the ASX Listing Rules specified in rule 1.15, and the requirement to release information to ASX that is released to NZX. Accordingly, there will be no need for such companies to file Appendix 4C quarterly cash flow reports pursuant to listing rule 4.7B, as this is not one of the listing rules that an ASX Foreign Exempt Listing must comply with in rule 1.15. Orion Health is strongly in support of removing this additional burden on NZX listed companies. The change will allow for consistency across the exchanges and will help to present a clear and accurate picture to the market.

#### **Existing standard ASX listed companies**

If the proposed changes in the Consultation Paper are implemented by ASX, it follows that NZX listed companies that have previously been listed as a standard ASX listing, should be re-classified as an ASX Foreign Exempt Listing in order to be entitled to the same advantages as potentially identical (but as yet unlisted) companies. We ask that you ensure that re-classified companies are accorded the full advantages of an ASX Foreign Exempt Listing from the outset. In particular, an NZX listed company that was previously required to provide Appendix 4C quarterly cash flow reports under rule 4.7B due to being admitted as a standard listing under the rule 1.3 assets test, should be re-classified as an ASX Foreign Exempt Listing and no longer need to provide quarterly cash flow reports, given rule 4.7B is not applicable to this listing category. Rather, the company should only need to comply with the ASX Listing Rules specified in rule 1.15 from the moment of re-classification, consistent with the requirements for an ASX Foreign Exempt Listing.

This accords with the underlying rationale behind the changes, reflecting the fact that the NZX Listing Rules are materially equivalent to the ASX Listing Rules and already set an appropriate standard for ongoing regulation, including in relation to financial reporting. Preventing companies that satisfy the criteria from utilising the changes would undermine the regulatory mutual recognition the ASX is seeking to encourage. It also ensures consistency and fairness in application of the ASX Listing Rules across comparable issuers, irrespective of whether they have listed before or after the adoption of the amendments.

### Registration as a foreign entity under the Corporations Act 2001

ASX has further proposed that it will remove the requirement for an issuer listed as an ASX Foreign Exempt Listing to be registered as a foreign company under the Corporations Act 2001 (“**Corporations Act**”). Instead, an ASX Foreign Exempt Listing issuer can either (b) be registered as a foreign company under the Corporations Act or (b) have a local agent appointed for service of process. This applies to all Foreign Exempt Listings, and not only those that are listed on the NZX. The company must continue to comply with the Corporations Act, however, so if it is “carrying on business in Australia” (as defined in section 601CD of the Corporations Act) it will still be required to register as a foreign company.

For the same reasons of fairness and consistency given in the section above, it should be open for a company (that does not carry on business in Australia) to re-classify as an ASX Foreign Exempt Listing issuer and to take advantage of this change by de-registering under the Corporations Act and instead having a local agent for service.

Thank you for the opportunity to provide feedback. If you have any questions in relation to this submission, please feel free to contact me on +64 27 442 4420.

Yours faithfully



Luke Facer / Emily Acland  
VP, General Counsel / Legal Counsel - APAC

Orion Health