24 June 2016

BY EMAIL: regulatorypolicy@asx.com.au

Office of General Counsel
ASX Limited
20 Bridge Street
Sydney NSW 2000

Attention: Diane Lewis – Senior Manager, Regulatory and Public Policy

Dear Ms Lewis

SUBMISSIONS IN RESPONSE TO CONSULTATION PAPER DATED 12 MAY 2016

We refer to the ASX Consultation Paper dated 12 May 2016 entitled "*Updating ASX's admission requirements for listed entities"* (**Consultation Paper**).

Argonaut is one of a number of stock broking firms, law firms, public relations and other corporate advisers that have prepared a joint submission in response to the ASX Consultation Paper, which has been endorsed by many companies currently listed on the ASX (**Joint Submission**). We have attached a copy of the Joint Submission for your reference.

Argonaut makes the below submissions in response to the Consultation Paper.

1. **Introduction**

1.1 The comments and suggestions set out below have been provided in good faith and cognisant of the good work the ASX currently does in protecting the integrity of the market and promoting an excellent system for companies to access capital and for investors to develop wealth.

1.2 Overall, we believe the changes set out in the Discussion Paper are strong positive steps forward that will mitigate existing risks for investors, stamp out unacceptable practices and protect the integrity of the market. We are also mindful that many of the ASX Listing Rules have not been updated in some time and we believe it is

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appropriate for the ASX to modify the Listing Rules as required to ensure they remain up to date and relevant.

1.3 However, as one of the most active financial advisers in Australia in the natural resources sector (metals & mining, oil & gas and resources contractors), we are concerned that some of the changes proposed in the Consultation Paper may have unintended consequences that will disproportionately affect small to mid-cap companies that make up much of the Western Australian resources sector. We are concerned that in seeking to address legitimate concerns and bring about positive change the ASX may inadvertently restrict legitimate businesses' access to the capital markets and may prevent honest shell companies, many of which have found themselves as de facto shell companies due to no fault of their own but simply as a result of market circumstances or bad luck, from reinventing themselves in order to recover shareholder losses.

1.4 The key objective of our submissions is to achieve the following:

(a) allow certain entities to be admitted to the ASX with net tangible assets of $3 million, where appropriate;

(b) end 'pump and dump' behaviour;

(c) allow ASX-listed shell companies to pursue transactions that will allow the directors to recover lost value for shareholders; and

(d) promote good fame and character requirements for directors of ASX-listed companies.

2. Submissions

2.1 A high level summary of our thoughts on the changes set out in the Consultation Paper is set out below.

Change	Response
Profit test Limb 3 of the "profit test" to increase from $400,000 to $500,000	Agree
Assets test • Minimum net tangible assets to increase to at least $5 million • Minimum market capitalisation to increase to at least $20 million	We believe the minimum NTA should remain $3m for mining and oil & gas companies, and be increased to $4m for companies with other types of 'classified asset'.

Change	Response
	Otherwise, we agree with the increased $5m minimum for other companies. We note also that this NTA test was increased from $2m to $3m only recently.
Free float Introduction of a minimum 20% free float requirement	Agree
Spread • 200 security holders where the entity has a free float of less than $50 million • 100 security holders where the entity has a free float of $50 million or more, provided that each security holder must hold a parcel of securities with a value of at least $5,000	Agree
Working capital Minimum working capital to remain at $1.5 million This $1.5 million will be calculated taking into account: • the entity's budgeted revenue for the first full financial year that ends after listing; and • the first full financial year's budgeted administration costs and the cost of acquiring any assets referred to in the disclosure document (to the extent these costs will be met out of working capital)	Agree
Audited accounts – assets test entities Entities admitted under the assets test will be required to provide: • audited accounts for the past three full financial years; and	Agree, however it is critical that clear guidance be given as to when the ASX will exercise its discretion. We believe any ASIC's involvement in the ASX process should be kept to a minimum.

Change	Response
• the accounts for the last full financial year and if the accounts are more than 8 months old, audited or reviewed accounts for the last half year Entities admitted under the assets test will be required to provide three full financial years of audited accounts for any entity or business to be acquired at or ahead of listing. ASX will have discretion under the proposed new rule to accept less than three full financial years of audited accounts, but proposes to only exercise this discretion in circumstances where ASIC will accept less than three full financial years of audited accounts in disclosure document.	
Guidance Note 12 amendments Entities that announce a backdoor listing transaction will have their securities suspended from trading from the time of the announcement until they have re-complied with Chapters 1 and 2 of the Listing Rules. ASX will not consider a request from an entity not to apply the 20 cent rule where (amongst other things): • the price at which the entity's securities last traded on ASX was less than two cents each; or • the issue price or sale price for any securities issued or sold as part of, or in conjunction with, the transaction is less than two cents each.	We do not agree with any blanket rule requiring entities to be suspended upon announcing a backdoor listing transaction, however we consider it is appropriate in some circumstances. We believe all companies should be permitted to carry out a consolidation to bring their share price above $0.02, regardless of whether their shares have traded at less than that price. We agree that backdoor listing transactions should not involve a capital raising at less than $0.02.

2.2 With regards to the new policy adopted by ASX, that all companies be immediately put into suspension upon announcing a backdoor listing transaction, we consider this change to be particularly detrimental to many ASX-listed companies facing financial difficulties and seeking to restore shareholder wealth. While we appreciate that this change prevents the pump and dump behaviour that Argonaut and ASX have been concerned with, this restriction will also make it much more difficult for directors to implement transactions that are genuinely intended to recover lost shareholder value.

2.3 We support the suggested six month escrow restriction set out in paragraphs 5.3 – 5.9 of the Joint Submission.

2.4 Argonaut considers it critical that any approach adopted by the ASX to restrict pump and dump behaviours also allow long-suffering shareholders to reclaim lost value upon the announcement of a backdoor listing transaction, as in many cases these companies and shareholders have lost the value of their investment due to outside elements such as market factors, environmental changes or business risks undertaken appropriately and honestly.

2.5 We also support the more fulsome disclosure requirement set out in paragraph 5.5 of the Joint Submission. We consider it critical that the ultimate changes implemented by ASX allow new investors to buy shares following the announcement of a backdoor listing transaction with the benefit of full and complete disclosure, so that a fully informed market can evaluate the value of the company post-transaction against the issue price of any related capital raising.

2.6 We are confident that together with the amendments suggested above the changes proposed in the Consultation Paper will directly address the pump and dump behaviour that has, in our opinion, allowed investors that acquired shares at a time of little risk to capture an unequitable proportion of the value created by the transaction, caused massive damage to the reputation of market participants and, at times, called into question the integrity of the market as a whole.

2.7 We note that, in our opinion, the pump and dump behaviour is predominantly carried out by shadow brokers. We consider it appropriate then that the ASX Listing Rules be varied to ensure that shadow brokers, which are subject to less stringent regulation than market participants, are not allowed the freedom to behave improperly by promoting transactions that are not appropriate for the ASX.

3. **Other matters**

3.1 Argonaut considers the ASX may wish investigate the possibility of two further changes that were not included in the Consultation Paper.

3.2 Firstly, we suggest the ASX considers the introduction of a mechanism for a 'sponsoring broker' to 'regulate' junior or small-cap companies listed on ASX, whereby that sponsoring broker would review and approve certain administrative paperwork currently being vetted by ASX. We support the suggested change set out in paragraphs 6.2 – 6.8 of the Joint Submission.

3.3 Secondly, we suggest the ASX implement increased requirements for companies to demonstrate to the market that existing directors meet the good fame and character requirements that would apply if the company was being admitted to the official list for the first time. We support the suggested change set out in paragraphs 6.9 – 6.12 of the Joint Submission.

We believe the changes set out in the Discussion Paper are largely positive, will benefit listed companies and their shareholders and will promote the ASX as a robust and profitable marketplace for businesses and investors, both within Australia and internationally. We are

hopeful that the above suggestions are received in the constructive spirit in which they have been provided.

We would be happy to discuss any of the above suggestions further if the ASX would find it useful.

Yours faithfully

ARGONAUT

EDWARD G. RIGG
Managing Director and Head of Corporate Finance

Responsible Executive of
Argonaut Securities Pty Ltd

CHARLES FEAR
Chairman and CEO