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Ms Diane Lewis
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Dear Ms Lewis

Comments on Consultation Paper: Updating ASX's admission requirements for listed entities

Deloitte is pleased to provide the Australian Securities Exchange (the ASX) with our comments on ASX's Consultation Paper: *Updating ASX's admission requirements for listed entities* (the Consultation Paper).

As outlined in the Consultation Paper, the ASX is proposing changes to the admission requirements for listed entities to ensure that the ASX market continues to be a market of quality and integrity, and remains internationally competitive. Deloitte is supportive overall of the ASX's proposals and believes the proposed measures will further maintain and enhance the exchange's international and regional standing.

Whilst we support a majority of the measures proposed we identify certain matters below which we believe warrant further consideration. Where we have not commented on specific questions we are supportive of the ASX's proposals.

Question 1: Do you support the introduction of a 20% minimum free float requirement? If not, why not, and would you support a different minimum free float requirement?

ASX does not currently have in place a rules-based free float requirement and generally accepts entities with a free float of circa 10% either at listing or over time. We understand the intention to increase this requirement is to strike a balance between supporting liquidity in the secondary market and supporting innovation and emerging growth industries whilst ensuring that the exchange maintains a minimum level of quality with regard to entities seeking admission.

We are concerned that stipulating such strict free float requirements could potentially deter innovation, and certain exceptional emerging companies that are seeking to list to either raise additional capital or enhance their public profile would be precluded from doing so. There have been a couple of stand-outs that fall within this category over the last 12 months:

- Last year the NASDAQ (included in ASX's proposed list of exchanges considered to have a regulatory framework broadly equivalent to the ASX for primary listings) accepted the listing of Atlassian who listed with a free float of only approximately 11% but this represented US$462m in capital raised and 22m shares. With such a size we do not believe there would be issues with the liquidity of the market despite there only being an 11% free float.

- Similarly, Wisetech Global which listed on the ASX in April this year, had a free float at the time of admission of around 17% (and was valued at nearly $1 billion).

We do not underestimate the benefit that the proposal would have in respect of the liquidity in IPO shares for a number of Issuers and promoting efficient capital markets. However the above examples clearly indicate that there would be merit in considering a tiered approach to the above free float rules. For instance, issuers above a certain threshold where there is deemed to be sufficient liquidity (based on either market capitalisation or capital raised) could be subject to reduced free float requirements and others could be subject to the 20% rule with the ASX maintaining its discretion in certain exceptional cases.

Question 3: Do you support the proposed changes to the spread test? If not, what element or elements of the changes do you not support, and what are your reasons?

We understand that the ASX has proposed as part of the changes to reduce the minimum spread requirement for ASX listings to require 200 security holders if the entity has a free float of less than A$50 million, or 100 security holders if the entity has a free float in excess of this amount. The existing requirements are for a shareholder spread test of 300-400 shareholders. We understand the proposed reduction to 100 shareholders is driven by challenges faced by certain issuers in meeting the spread requirements even when these large IPOs are oversubscribed by institutions.

There have been significant concerns voiced around the market in relation to the fairness of these proposed spread rules which would curtail Retail Investors (including those investing in the equity markets via Self Managed Super Funds) from accessing new offers. The current spread requirements ensure that Retail Investors receive some allocation via their Brokers whereas reducing the required number of shareholders to 100 in case of large listings could result in Retail Investors receiving no allocation and having to access IPOs via the secondary market post listing. We question whether such a measure could have unintended negative impacts on the level of liquidity in the market.

Question 8: Do you support the proposed requirement for entities admitted under the assets test to provide 3 full financial years of audited accounts, unless ASX approves otherwise? If not, please provide your reasons and describe what, if any, alternative approach you consider should be taken by ASX in order to meet the objectives of the proposed change.

Overall, this measure is consistent with ASIC's proposed requirements discussed in ASIC Consultation Paper *Improving disclosure of historical financial information in prospectuses: Update of RG 228* (CP 257) and are aimed at improving the quality and integrity of information reported and the type of companies the ASX seeks to attract (or otherwise). We are broadly in support of this proposal, but would encourage that the ASX retains discretion in allowing exemptions in certain circumstances where it deems the listing acceptable as is envisaged with the alignment with the RG 228 exemption from 3 years of financial information.

Proposed listing rule 1.3.5(b) also requires that if the entity is proposing to acquire another entity or business that generally audited accounts for the last 3 full financial years for that entity or business to be acquired are provided. The Consultation Paper notes specifically that this change will have particular application to backdoor listings. Whilst we agree that this proposal has merit in the context of backdoor listings we question its practicality and relevance in respect of all types of acquisitions, such as those being undertaken by an entity as part of an organic expansion programme. We recommend that the ASX further considers the extent to which such audited accounts for an entity or business to be acquired are required. For example, we recommend consideration of the introduction of a size based test such that the numbers of years of audited accounts required for the entity or business to be acquired is determined by the relative size of the potential acquiree to the acquirer, based on a profits, asset or net investment test.

Question 9: ASX has proposed that it will generally accept less than 3 years of audited accounts for an assets test entity (or an entity or business to be acquired by the entity) only in the circumstances where ASIC will accept less than 3 full years of accounts in a disclosure document, as explained in Part F of ASIC Regulatory Guide 228 (RG228). Simultaneously with the release of this consultation paper, ASIC has released a consultation paper seeking comments on proposed changes to RG 228 setting out these circumstances.

Are there additional circumstances where you consider ASX should be prepared to accept less than 3 years of audited accounts to those outlined in ASIC'S consultation paper on RG 228?

We believe consistency needs to exist between the ASX listing requirements and ASIC disclosure document requirements in respect of the number of years for which audited historical financial information is required. CP 257 provides examples of circumstances where historical financial disclosures may not be required either because they are not relevant or not reasonable to obtain, to which we agree. However outside of these examples we believe that further clarity is required in relation to the format of these accounts, including the basis under which they need to be prepared. For example:

- Whether the accounts of the most recent period lodged pre-listing are required to be general purpose (tier 1 or 2) financial statements or are special purpose financial statements sufficient? We believe that if special purpose financial statements are prepared this would conflict with the reporting entity concept in SAC 1 *Definition of the Reporting Entity* and the definition of public accountability in AASB 1053 *Application of Tiers of Australian Accounting Standards*.
- If special purpose financial statements are deemed sufficient, are such accounts required to comply with all the recognition and measurement requirements of Australian Accounting Standards?
- Are comparatives required in all cases or would ASIC and the ASX be comfortable with certain accounts not having comparatives (as long as the 2.5 or 3 year audited/reviewed requirement is satisfied)? For example, if three years of audited accounts including comparatives are lodged this would result in 4 years of financial information being provided.
- Under proposed Listing Rule 1.3.5(b) where accounts are required for a business the entity is proposing to acquire, where this business is a subset of another entity, what is the basis of preparation for the financial statements of the business which is not a separate vehicle?

Deloitte is in the process of preparing a detailed submission to ASIC in relation to CP 257 and will discuss the above matters as part of that submission.

Question 10: ASX has also proposed that it will only accept the types of modified opinion, emphasis of matter or other matter paragraph in accounts lodged with a listing application that ASIC will accept in a disclosure document, as explained in Part F of RG 228. Are there additional types of modified opinion, emphasis of matter or other matter paragraph that you consider ASX should be prepared to accept those outlined in ASIC's consultation paper on RG 228?

Again, we believe consistency needs to exist between the ASX listing requirements and ASIC disclosure document requirements. CP 257 recognises that not all qualified or modified audit reports will result in ASIC regarding the financial information as unaudited, for example, emphasis of matter regarding going concern in circumstances where a successful listing will enable the company to continue its operations, or opening balance qualifications or qualifications related to the inability to inspect inventory where three years of financial statements are audited for the first time, a proposal which we agree with. However an area which we believe should be addressed is where the basis for opinion includes a quantification of the financial effects of the misstatement. In such circumstances investors and their professional advisers should be able to determine the impact of such a modified audit opinion and pro forma financial information adjusted for such misstatements shouldn't be seen to harm the integrity of the financial information presented in prospectuses.

We also note that the discussion regarding emphasis of matter paragraphs linked to going concern issues does not reflect the latest Auditing Standard ASA 570 *Going Concern* effective for 31 December 2016 year-ends which requires in cases where adequate disclosure about the material uncertainty of an entity to continue as a going concern is made in the financial report, the auditor to express an unmodified opinion and the auditor's report to include a separate section under the heading "Material Uncertainty Related to Going Concern". This should be updated in any revised Listing Rules.

As noted above, it is unclear whether comparatives are necessarily required in the accounts by ASIC. Based on the experience of our Corporate Finance team on recent IPOs, ASIC's current guidance is for three (or two and a half) years of historical financial information to be included in the prospectus financials, and we note a number of prospectuses where the three years of financials are based on the last two years of financial statements including comparatives. Where three years of accounts are provided to ASX with comparatives, the issuers are effectively providing 4 years of financial information. If no comparatives were presented in the oldest set of financial statements such accounts could not comply with Australian Accounting Standards and would attract a modified audit opinion. We believe these still meet ASIC's disclosure requirements and for consistency should be acceptable to ASX.

Finally, we are pleased that the ASX and ASIC are collaborating on this consultation process and have a consistent approach. We trust that ASX's consultation process will inform ASIC's consultation process on RG 228. We thank you for this opportunity to comment on this Consultation Paper.

Please do not hesitate to contact us if you would like to discuss any of our comments raised in this letter further.

Yours sincerely

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