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**Companies Update**  
**11 January 2010**

**Update no 01/10**

## Important information for ASX Listed Entities

### **Listing Rule Amendments from the 2007 Omnibus Listing Rule Amendments come into effect**

ASX advises that a number of listing rule amendments come into effect on 11 January 2010. These listing rule amendments were exposed for public comment in the [2007 Omnibus Listing Rule Amendments document](#) (PDF 557 KB), released 22 June 2007.

#### **Summary of amendments**

##### *Corporate governance listing rules*

- [Listing rule 12.7](#) (PDF 60 KB) has been amended so that the group of listed entities that is required to have an audit committee constituted in compliance with the recommendations of the ASX Corporate Governance Council is changed from the top 300 entities in the S&P/ASX All Ords, to the entities that make up the S&P/ASX 300.
- A corresponding amendment has been made to [listing rule 1.1 condition 13](#) (PDF 119 KB) so that an entity that has applied for listing and which will be included in the S&P/ASX 300 upon its admission will be required to have a complying audit committee.
- [Listing rule 1.1 condition 13](#) (PDF 119 KB) has also been amended so that an entity applying for admission to the official list must provide a statement disclosing the extent to which it follows the recommendations of the ASX Corporate Governance Council.
- A definition of the term S&P/ASX 300 Index has been included in [listing rule 19.12](#) (PDF 144 KB)

##### *Annual report information to be included by entities that are required to comply with the commitments test in listing rule 1.3.2(b) as a result of a backdoor listing*

- [Listing rule 4.10.19](#) (PDF 101 KB) has been amended to clarify that an entity that has complied with the commitments test in [listing rule 1.3.2\(b\)](#) (PDF 119 KB) in the context of a backdoor listing must provide annual report disclosure for the first 2 annual reports after its reinstatement to quotation on whether it used its cash consistently with its stated business objectives.

##### *Quarterly reporting on mining tenements by entities that are not classified as mining exploration entities*

[Appendix 4E](#) - Listing Rules

[Appendix 6A](#) - Listing Rules

[Appendix 7A](#) - Listing Rules

[Guidance Note 8](#) - Listing Rules (PDF 222 KB)

[Unsubscribe](#)

- [Listing rule 5.2](#) (PDF 68 KB) has been amended to clarify that for an entity that is not classified as a mining exploration entity but which has an interest in a mining tenement, there will be an obligation to lodge a quarterly activities report only if the interest in the mining tenement is material to that entity.

#### *Additional information to be included in dividend announcements*

- The timetable for dividends at item 1 of [Appendix 6A](#) of the Listing Rules has been amended so that announcements of dividends or distributions must include information about the operation of a dividend reinvestment plan for that dividend, and about foreign conduit income.

#### *Change to timetable for reconstruction of capital (without court approval)*

- The timetable for carrying out reorganisations of capital (without court approval) at item 5 of [Appendix 7A](#) of the Listing Rules has been amended to include an additional day of trading on a pre-reorganisation basis after the date of shareholder approval of the reorganisation.

#### *On-market buy-backs by listed trusts*

- Footnotes have been included in listing rules [3.8A, 3.9](#) (PDF 117 KB), [7.29, 7.33, and 7.36](#) (PDF 148 KB) to refer to listed trusts undertaking an on-market buy-back of interests in accordance with ASIC Class Order 07/422. The compliance statement in each of Appendices 3C to 3F has been amended to include a reference to trusts.

#### *Deletion of redundant listing rules, or rules that overlap with Corporations Act provisions*

- Rules in [chapter 4](#) (PDF 101 KB) relating to the lodgement of financial reports for periods ending before 30 June 2003, and the transitional rules for first time adoption of AIFRS, have been deleted. The Appendix 4B has been deleted. Consequential amendments to [listing rule 17.5](#) (PDF 75 KB) have been made.
- Listing rules 3.2 and 3.3 have been deleted. These rules required notification to ASX of information about percentage holdings of securities in a bid class by entities making takeover offers, when the offer period was extended or when it finished. These rules overlapped with Corporations Act obligations about disclosure of interests in securities by entities making takeover offers.
- Listing rule 14.2.2, requiring that a proxy form must

provide for the security holder to appoint proxies of the holder's choice, has been deleted. This overlapped with section 249X of the Corporations Act.

- [Listing rule 15.3.1](#) (PDF 93 KB) has been amended to remove the ability of ASX to notify an entity that the entity had not complied with listing rule 15.3.1 if in ASX's opinion the entity had not complied with the electronic lodgement agreement. This discretion appeared to be redundant.

Full copies of the amended chapters and Appendices are available on [asx.com.au](http://asx.com.au) and on [ASX Online](#).

### **Profit Warnings and other announcements of expected material differences in financial results**

In the period leading up to the deadline for lodging the periodic reports for half-year or annual reporting periods ended 31 December 2009, ASX would like to remind listed entities of their obligations under [listing rule 3.1](#) (PDF 117 KB) in relation to any expected material variations in their financial results for that period. Entities are required to make an appropriate announcement immediately they become aware that there is expected to be a material difference in the financial results for that period from the results that were recorded in the previous corresponding period, or from forecasts for that period that have been provided to the market by the entity, or (in some cases) from analysts' consensus forecasts. It is not acceptable for the release of such information to be delayed until the release of the periodic financial report (the [Appendix 4D](#), [Appendix 4E](#), or statutory financial report).

[Listing rule 3.1](#) (PDF 117 KB) states:

*"Once an entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities, the entity must tell ASX that information."*

[Guidance Note 8](#) (PDF 222 KB) to the ASX Listing Rules is on the subject of Continuous Disclosure and has been issued to assist listed entities to comply with their disclosure obligations. The Guidance Note outlines ASX's expectations in relation to best disclosure practice. Paragraphs 93 to 95 of [Guidance Note 8](#) (PDF 222 KB) are particularly relevant to continuous disclosure obligations in the context of periodic financial reporting.

Specifically, Paragraph 93 of [Guidance Note 8](#) (PDF 222 KB) states:

*"Listing rule 3.1 provides examples of information that, if material, would require disclosure. One of those examples is a change in the entity's previously released financial forecast or expectation. As a general policy, a variation in excess of 10% to 15% may be considered material, and should be announced by the entity as soon as the entity becomes aware of the variation. If the entity has not made a forecast, a similar variation from the previous corresponding period will need to be disclosed. In certain circumstances a smaller variation will be disclosable."*

Paragraph 94 states that:

*"In making such disclosure, the entity must provide some details, however qualified, of the extent of the variation. For example a statement by an entity may indicate that, based on internal management accounts, its expected net profit or EBIT will be an approximate amount (e.g. approximately \$6m) or alternatively within a stated range (e.g. between \$5m and \$7m). Alternatively, the entity may indicate an approximate percentage movement (e.g. "up [or down] by 25 %"). ASX accepts that this information may not be precise and may be changed or amended on completion of the final accounts. ASX discourages entities from using terms such as "single digit" and "double digit" when disclosing financial forecasts or profit variations as they are considered to be insufficiently precise and potentially misleading to investors in assessing the impact of information and making investment decisions."*

An example relevant to paragraphs 93 to 95 is set out at Example B on page 23 of [Guidance Note 8](#) (PDF 222 KB).

Listed entities are asked to take note that where an entity reports results that have varied by greater than 10% to 15%, ASX will undertake a review of previous announcements made by that entity in the financial reporting period to determine if continuous disclosure obligations have been met. This approach will be adopted in respect of entities whose periodic financial report discloses variations of approximately that size from the results in the previous corresponding reporting period or from forecasts or earnings guidance previously released by the entity itself, and (in appropriate cases) from analysts' consensus forecasts. Where it does not appear from that review that an announcement indicating the likelihood of a material

variation in the results had been released prior to the release of the periodic financial report, ASX may write to an entity asking it to state when it first became aware that there would be such a variation. If ASX decides to write to an entity in order to confirm that the entity has met its continuous disclosure obligations, copies of correspondence between ASX and the entity may be released to the market.

#### **Appendix 4D and Appendix 4E - Presentation of Documents**

ASX would also like to take this opportunity to draw listed entities' attention to [listing rules 4.2C.3 and 4.3C.2](#) (PDF 101 KB), which state that in relation to information or documents given to ASX under [listing rules 4.2A and 4.3A](#) (PDF 101 KB):

*The information identified as "Results for announcement to the market" must be set out at the beginning of the document"*

The "Results for announcement to the market" section of the announcement forms the basis for the voiceline broadcast which is made for all profit results by the Company Announcements Office (CAO). Profit results also trigger a brief halt in trading while the announcement is prepared by CAO for release and voiceline to the market.

If the relevant section is not prominently displayed at the front of the document, delays will occur in processing and release, particularly during CAO's busy periods. The full name of the reporting entity should also be included on this front page for inclusion in the voiceline broadcast.

Please note that if you are preparing supplementary documentation to be lodged separately but at the same time as the periodic financial reports (such as media releases and/or presentations), these should be sent to ASX after the [Appendix 4D](#) or [4E](#). The 'sensitive' document which triggers the halt in trading is the relevant Appendix containing the voiceline details described above, and it should therefore always be sent to ASX and released ahead of any supplementary documentation.

ASX would also request that correct user name and telephone number for contact purposes are attached to each e-lodgement so that any issues may be promptly resolved by CAO.

It would be appreciated if you could take note of these important steps in preparing your half-yearly and preliminary final profit reports in order to avoid unnecessary confusion and delay.



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To help keep our Listed Entities informed of information and events ASX will be sending emails to the Company Secretary's Office from time to time. You are receiving this email because you have been identified as a key contact within the Company Secretary's Office at your organisation. If you would like to update your email address please do so via the Directors/Senior Management page on [ASX Online for Companies](#). Feel free to forward this email to any relevant parties within your organisation.

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