

Listed@ASX Compliance Update no. 11/21

16 December 2021

1. Disclosure regarding patent applications

ASX has observed a number of entities releasing, or attempting to release, announcements on MAP to inform the market that the entity has commenced the application process for one or more patents. In some instances, these applications have been described as having the effect of “fortifying” an entity’s protection of its intellectual property or similar, despite no patent rights having been granted at that stage.

Some entities that have made such announcements have also been found to have not updated the market on steps in the application process which may be considered “negative”, such as the lapsing of applications or an examiner’s rejection of some or all claims.

Listed entities should take note of the following ASX guidance:

- Section 14 of Guidance Note 14, which provides “MAP should only be used to publish information that is appropriately given to ASX under the Listing Rules or the Corporations Act for publication to the market. It should not be used as a guise to publish material that is really promotional, political or tendentious in nature. ... ASX may refuse to accept or publish an announcement from an entity that does not meet the standards described above. If such an announcement is released to the market, ASX may require the entity to lodge a corrective announcement and may suspend trading in its securities until it does so.” (Guidance Note 8 provides similarly at section 4.15 in the context of announcements purported to be released under Listing Rule 3.1).
- The [Code of Best Practice for Reporting by Life Science Companies](#) (2nd edition) (the ‘Code’), published by ASX and AusBiotech, states that “The fact that a patent application has been filed is seldom material, it is generally only after grant that a patent right becomes a material asset, which should be disclosed. If information relating to patent filings or progress on patent applications is made, however, communication to the market should be balanced and informative. Particular care needs to be taken to ensure that investors are not given a misleading impression of the breadth of protection afforded by a patent, the likelihood of grant of a patent or the ability of the company to enforce its patent rights.”

Although the Code is applicable to the life sciences sector, ASX considers this paragraph to reflect general principles regarding the concept of materiality which are implicit in Listing Rule 3.1 (see sections 4.1 and 4.2 of Guidance Note 8, and particularly the commentary at note 20).

If a listed entity wishes to update the market on the status of a patent application prior to its grant then it should do so in its quarterly reports or other periodic disclosure. Stand-alone announcements concerning such applications, whether marked “price-sensitive” or not, are likely to result in further action from ASX (which may include the announcement being rejected or ASX sending a query letter requiring the entity to justify why it considers it to have been appropriate to release the announcement on MAP).

2. ASX launches electronic CHES statements and notification service

On 13 December 2021, ASX launched the electronic CHES holding statements and notification service. Electronic CHES holding statements and notifications are part of ASX’s commitment to help you – our listed companies and other issuers – and your shareholders enjoy a better, more efficient and cost-effective ASX experience.

We have updated the design of electronic CHES holding statements to include a larger, colour issuer logo to promote your entity’s branding and improve the appeal of the statement for investors. Printed CHES statements will migrate to the new design at a later date.

As announced on 5 November 2021, ASX is reviewing the fees it charges for Issuer Administration Services and will be engaging with issuers on a new, simpler and more contemporary pricing model from early 2022. Fees for all electronically delivered statements during the review period will be waived.

If you have any questions regarding electronic CHESS holding statements and notifications, please contact issuers@asx.com.au

3. Consultation on potential changes to GICS structure in 2022

The Global Industry Classification Standard (GICS) was jointly developed by S&P and MSCI to classify companies for the purposes of investment, including inclusion in indices. On 29 November 2021, S&P and MSCI released a consultation on some changes to the GICS structure which are summarised below.

1. **Renewable energy** - Consolidate all 'Energy' producers and related equipment & service providers under the Energy Sector.
2. **Retailers** - Discontinue the Internet & Direct Marketing Retail Sub-Industry and consolidate various retail formats spread across the Consumer Discretionary and Consumer Staples Sectors.
3. **Data Processing & Outsourced Services** - Move Data Processing & Outsourced Services Sub-Industry and reclassify transaction and payment processing companies. In addition, reclassify transaction and payment processing companies from the Information Technology Sector to the Financials Sector.
4. **Banks and Thrifts & Mortgage Finance** - Consolidate Diversified Banks, Regional Banks and Thrifts/Saving Banks into one Sub-Industry and reclassify Mortgage Finance from banks to financial services.
5. **REITs** - Introduce more granularity to Equity REITs.
6. **Transportation** - Redefine the Trucking Sub-Industry and create one new Sub-Industry called Passenger Ground Transportation.
7. **Classification of Cannabis** - Update the definition of Pharmaceuticals to include companies primarily manufacturing cannabis-based drugs used to treat diseases.

The link to consultation which contains more detail can be found [here](#). Page 4 of the consultation contains links to a survey and email addresses for the provision of feedback.

4. Listed on ASX Emblem



Listed companies can now download an ASX-listed emblem to display in appropriate contexts such as market announcements or the investor relations page of their website. The emblem, together with conditions of use, are available in [ASX Online Companies](#) on the 'Welcome to Companies' page.

5. Upcoming periodic report deadlines

Listed entities are reminded of upcoming deadlines for periodic reports:

- Quarterly reports for mining exploration, oil and gas exploration and commitments test entities – Monday 31 January 2022
- Half year accounts for entities other than mining exploration and oil and gas exploration entities (June year-end) – Monday 28 February 2022
- Preliminary final reports for entities other than mining exploration and oil and gas exploration entities (December year-end) – Monday 28 February 2022
- Half year accounts for mining exploration and oil and gas exploration entities (June year-end) – Wednesday 16 March 2022
- Full year audited accounts/auditor's report/directors' statement (December year-end) – Thursday 31 March 2022.

Listed entities are also reminded that a failure to lodge the relevant documents on time will result in an automatic suspension of the entity's securities under Listing Rule 17.5.
