



Companies Update

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Key topics

- 1. Listing Rule Amendments – Periodic Disclosure – Financial Reporting

Reading List

- 1. Chief Financial Officers
- 2. Company Secretaries
- 3. Chief Executive Officers
- 4. Legal Counsel

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COMPANIES UPDATE

ASX LISTING RULE AMENDMENTS – PERIODIC DISCLOSURE FINANCIAL REPORTING – FREQUENTLY ASKED QUESTIONS

The purpose of this update is to provide guidance in relation to the implementation of the new periodic reporting requirements that form part of the Listing Rule amendments effective 1 January 2003. Entities should also refer to the Response Document issued 25 November 2002 for a detailed outline of the rule amendments and ASX policy in relation to the periodic reporting framework. The Listing Rules and related Guidance Notes are now available on the ASX website at http://www.asx.com.au/WhatsNew_HP2.shtm#Listing_Rules.

The updates are also available on ASX Online from http://www.asx.com.au/about/InfoCompanies_AA2.shtm. Hard copies of the rule amendments have been sent to all listed entities.

1. EFFECTIVE DATE

When do the listing rule amendments come into operation?

All of the amendments come into force on 1 January 2003. However, the changes to format and content in the new Appendices 4D, 4E and 4F half year, preliminary final and change of balance date reports will only apply to periods ending on or after 30 June 2003. Half years and full years ending on 31 December 2002 will not be affected by these changes.

2. RELATIONSHIP WITH CONTINUOUS DISCLOSURE

What is the relationship between the new listing rules and the continuous disclosure obligation?

The amendments include two new rules intended to emphasise the primacy of the continuous disclosure obligation. New rules 4.3D and 4.5A require an entity to immediately disclose circumstances that are likely to materially affect the information in a preliminary final report, and in any event to make disclosure no later than when the entity gives ASX its statutory annual accounts. These rules come into effect on 1 January 2003.

3. REPORTING DEADLINES

How do the listing rule amendments affect reporting deadlines?

There is no change to reporting deadlines for half year or preliminary final reports for periods ending before 30 June 2003, and these reports continue to be in the Appendix 4B format.

However, there are three new reporting deadlines which apply to periods ending 30 June 2003, as follows:

- Australian entities are required to give ASX their statutory half year documents prepared under the Corporations Act within 75 days of the end of the half year. Previously, Australian entities were required to give ASX these documents but there was no deadline ASX imposed for lodging them and consequently failure to lodge them did not result in suspension.
- Australian entities are required to give ASX their statutory full year documents prepared under the Corporations Act within three months of the end of the year. Previously, Australian entities were required to give ASX these documents but there was no deadline ASX imposed for lodging them and consequently failure to lodge them did not result in suspension.
- All foreign entities are required to give ASX the full year documents which a registered foreign company must give ASIC, regardless of whether they are registered as a foreign company. These documents must be given to ASX within three months of the end of the year. Previously, only registered foreign companies were required to give ASX these documents. Further, there was no deadline for lodging them and consequently failure to lodge them did not result in suspension.

The reporting deadline for half year reports containing Appendix 4D information for periods ending on or after 30 June 2003 is two months after the end of the half year. The reporting deadline for mining exploration entities, who are not required to provide Appendix 4D information but are required to give ASX their statutory half year accounts, remains 75 days after the end of the half year.

The reporting deadline for preliminary final reports containing Appendix 4E information for periods ending on or after 30 June 2003 is 75 days after the end of the year. However, for periods ending on or after 30 June 2004 the deadline is reduced to two months after the year end.

4. AUDIT REQUIREMENTS

How do the listing rule amendments affect obligations to audit reports?

The listing rule amendments do not materially affect the position.

Currently, the half year report in the form of Appendix 4B does not need to be audited but it is customarily combined with the statutory half year accounts under the Corporations Act which must be audited or reviewed. The new half year report containing the information in Appendix 4D must also incorporate statutory half year accounts, and there is an express requirement that they be audited or reviewed in order to align the listing rules with the Corporations Act. This requirement for accounts to be audited or reviewed applies to both Australian and foreign entities, in the interests of a level playing field. Mining exploration entities are only required to provide statutory half year accounts but these must be audited or reviewed.

Currently, the preliminary final report in the form of Appendix 4B does not need to be audited or reviewed. The new preliminary final report containing the information in Appendix 4E also does not need to be audited or reviewed. However, the full year accounts underlying an Appendix 4B or Appendix 4E preliminary final report must, of course, be audited and this audit can be completed after the preliminary final report is given to ASX.

5. REPORTING OBLIGATIONS OF FOREIGN ENTITIES

How do the listing rule amendments affect the reporting obligations of foreign entities?

The reporting obligations of foreign entities are enhanced in the following ways:

- For periods ending on or after 30 June 2003, a foreign entity must give ASX, as part of the half year report, information which is equivalent to the statutory half year documents which an Australian entity must prepare under the Corporations Act. For periods ending before 30 June 2003 there is no comparable requirement.

This information must be provided within two months of the end of the half year and must be audited or reviewed.

The practical effect of this new requirement is that a foreign entity must provide the following:

- Financial statements (balance sheet, profit and loss account; cash flow statement).
 - Notes to the financial statements.
 - Directors' declaration that the accounts represent a true and fair view.
 - Auditor's report on audit or on review.
 - Directors' report.
- For all periods (whether ending before, on or after 30 June 2003), all foreign entities must give ASX the full year documents which a registered foreign company must give ASIC. The documents must be given to ASX within three months of the end of the year. Previously, only registered foreign companies were required to give ASX these documents and no deadline for lodging them applied. See also Questions 3 and 13.

The practical effect of this new requirement is that a foreign entity must provide the following:

- Balance sheet.
- Cash flow statement.
- Profit and loss statement.

6. HALF YEAR REPORTING – MINING EXPLORATION ENTITIES

How will the half year reporting obligations of mining exploration entities be affected by the listing rule amendments?

There is minimal change so far as Australian mining exploration entities are concerned. They are not currently required to provide half year reports in the form of Appendix 4B. They will not be required to provide the information in the new Appendix 4D. The only change is that from 1 January 2003 an Australian mining exploration entity must give ASX its statutory half year documents under the Corporations Act within 75 days of the end of the half year and it will be suspended if it fails to do so. Currently, Australian mining exploration entities are required to give ASX these half year documents when they lodge them with ASIC but there is no specified deadline in terms of days and an entity is not suspended if it fails to provide them. See also Question 3.

There are more substantial changes so far as foreign mining exploration entities are concerned. While they will not be required to provide the information in the new Appendix 4D, for periods ending on or after 30 June 2003 they will be required to give ASX information which is equivalent to the statutory half year documents which Australian mining exploration entities must prepare under the Corporations Act. This information must be provided within 75 days of the end of the half year. See also Question 5.

7. HALF YEAR REPORTING – NON-MINING EXPLORATION ENTITIES

How will the half year reporting obligations of entities which are not mining exploration entities be affected by the listing rule amendments?

There is substantial change. These entities are currently required to provide half year reports in the form of Appendix 4B within 75 days of the end of the half year. For periods ending on or after 30 June 2003 they will now be required to provide the information in the new Appendix 4D within two months of the end of the half year.

There are also substantial changes affecting foreign entities. For periods ending on or after 30 June 2003 they will be required to give ASX information which is equivalent to the statutory half year documents which Australian entities must prepare under the Corporations Act. This information must also be provided within two months of the end of the half year. See also Question 5.

8. HALF YEAR REPORTS – LODGEMENT REQUIREMENTS

What are the lodgement requirements for the new half year reports?

For periods ending on or after 30 June 2003 many entities will need to give ASX information drawn from several sources in order to satisfy the half year reporting obligation. Examples are as follows:

- A foreign mining exploration entity may be required to give ASX the half year reports that it prepares under the law of its home jurisdiction, together with additional information that would be required to be provided by an Australian entity under the Corporations Act. Accounts contained in this report must be audited or reviewed, and the auditor's report must also be given to ASX.
- An Australian entity which is not a mining exploration entity will be required to give ASX the half year reports that it prepares under the Corporations Act, and the information in Appendix 4D.
- A foreign entity which is not a mining exploration entity will be required to give ASX the half year reports that it prepares under the law of its home jurisdiction, together with additional information that would be required to be provided by a Australian entity under the Corporations Act, and the information in Appendix 4D. Accounts contained in this report must be audited or reviewed and the auditor's report must also be given to ASX.

All of this information must be "bundled" together and given to ASX at the same time and clearly designated as "half year information". Further, if Appendix 4D information must be provided, the "results for announcement to the market" must be set out at the beginning of the document.

9. STATUTORY HALF YEAR INFORMATION

How do the listing rule amendments affect the obligation to give ASX statutory half year information?

The obligation is enhanced in the following ways:

- For periods ending before 30 June 2003, all Australian entities must give ASX their statutory half year documents prepared under the Corporations Act within 75 days of the end of the half year, or be suspended. Previously, Australian entities were required to give ASX these documents but no deadline for lodging them applied. See also Question 3.
- For periods ending on or after 30 June 2003, all Australian entities that are not mining exploration entities must give ASX their statutory half year documents prepared under the Corporations Act within two months of the end of the half year, or be suspended. The statutory half year documents are included as part of the half year report required under the listing rules and must be "bundled" with the Appendix 4D information – see Question 8.
- For periods ending on or after 30 June 2003, all foreign entities that are not mining exploration entities must give ASX half year documents equivalent to those which an Australian entity must prepare under the Corporations Act within two months of the end of the half year, or be suspended. Accounts contained in this report must be audited or reviewed and the auditor's report must also be given to ASX. These half year documents are included as part of the half year report required under the listing rules and must be "bundled" with the Appendix 4D information. See also Questions 5 and 8.
- For periods ending on or after 30 June 2003, all Australian entities that are mining exploration entities must give ASX their statutory half year documents prepared under the Corporations Act within 75 days of the end of the half year, or be suspended. Previously, Australian entities were required to give ASX these documents but no deadline for lodging them applied.

10. PRELIMINARY FINAL REPORTS - MINING EXPLORATION ENTITIES

How will the preliminary final reporting obligations of mining exploration entities be affected by the listing rule amendments?

There is no change so far as all mining exploration entities (Australian and foreign) are concerned. They are not currently required to provide preliminary final reports in the form of Appendix 4B. They will not be required to provide the information in the new Appendix 4E.

However, all foreign entities (including mining exploration entities) will be subject to new obligations in relation to full year reporting – see Question 13.

11. PRELIMINARY FINAL REPORTS - NON- MINING EXPLORATION ENTITIES

How will the preliminary final reporting obligations of entities which are not mining exploration entities be affected by the listing rule amendments?

There is no substantial change. These entities are currently required to provide preliminary final reports in the form of Appendix 4B within 75 days of the end of the year. For periods ending on or after 30 June 2003 they will now be required to provide the information in the new Appendix 4E – which is substantially similar in content to the Appendix 4B - within 75 days of the end of the year. However, the reporting deadline will decrease to two months after year end for periods ending on or after 30 June 2004.

Further, all foreign entities (including mining exploration entities) will be subject to new obligations in relation to full year reporting – see Question 13.

12. PRELIMINARY FINAL REPORTS – LODGEMENT REQUIREMENTS

What are the lodgement requirements for the new preliminary final reports?

All of the information provided must be clearly designated as “preliminary final information”. Further, the “results for announcement to the market” must be set out at the beginning of the document.

13. STATUTORY FULL YEAR INFORMATION – OBLIGATION TO GIVE TO ASX

How do the listing rule amendments affect the obligation to give ASX statutory full year information?

The obligation is enhanced in the following ways:

- For all periods (whether ending before, on or after 30 June 2003), all Australian entities must give ASX their statutory full year documents prepared under section 319 of the Corporations Act within three months of the end of the year, or be suspended. Previously, Australian entities were required to give ASX these documents but no deadline for lodging them applied.
- For all periods (whether ending before, on or after 30 June 2003), all foreign entities must give ASX the full year documents which a registered foreign company must give ASIC under section 601CK of the Corporations Act. The documents must be given to ASX within three months of the end of the year. Previously, only registered foreign companies were required to give ASX these documents and no deadline for lodging them applied.

14. DIFFERENCES BETWEEN APPENDIX 4B AND 4D – HALF YEAR REPORT

What are the material differences between the Appendix 4B half year report and Appendix 4D

Appendix 4B substantially duplicates the contents of the half year reports prepared under the Corporations Act. The effect of the amendments is to shift the emphasis to these half year reports (or equivalents provided by foreign

entities). Appendix 4D supplements these half year reports but generally requires no more information than that required by the Appendix 4B. Further, no format for presentation of the information is prescribed, save that the “results for announcement to the market” must be set out at the beginning of the document.

15. DIFFERENCES BETWEEN APPENDIX 4B AND 4E – PRELIMINARY FINAL REPORT

What are the material differences between the Appendix 4B preliminary final report and Appendix 4E?

Appendix 4E is substantially similar to Appendix 4B. It requires disclosure of similar information to that required by Appendix 4B plus a commentary on results. However, no format for presentation of the information is prescribed, save that the “results for announcement to the market” must be set out at the beginning of the document.