

Chapter 15

Requirements for documents

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Explanatory note

ASX has issued a Guidance Note on its **market announcements platform* (see Guidance Note 14 *ASX Market Announcements Platform*).

Giving draft documents to ASX

- 15.1 An entity must give ASX a draft of each of the following documents for examination. The entity must not finalise the document until ASX tells it that ASX does not object to the document. ASX will use all reasonable endeavours to tell the entity within 5 **business days* whether it objects, or that it needs more time to examine the document.

Introduced 01/07/96 Origin: Listing Rule 3J(33) Amended 01/07/00, 01/12/19

Cross reference: rule 15.2.2. A draft document is given to the home branch.

- 15.1.1 Proposed amendments to its constitution.

Introduced 01/07/96 Origin: Listing Rule 3A(15) Amended 01/12/19

Cross reference: rules 3.17, 15.4.2 and 15.11.

Note: The draft must be given to the home branch in a way that enables the changes to be readily identified. The amended constitution must be given to the market announcements office after the amendments have been made.

- 15.1.2 Proposed amendments to the terms of any **securities*.

Introduced 01/07/96 Origin: Listing Rule 3A(15) Amended 01/12/19

Note: Section 260FA(1) of the Corporations Act may require a trust deed in relation to debt securities. If a trust deed is required, a copy of any amending deed must be given to ASX under this rule. The draft must be given to the home branch in a way that enables the changes to be readily identified. The amended document must be given to the market announcements office after the amendments have been made.

15.1.3 A document to be sent to persons entitled to participate in a new issue under an arrangement or reconstruction.

Introduced 01/07/96 Origin: Listing Rule 3E(7)(a)

Note: Part 5.1 of the Corporations Act deals with arrangements and reconstructions for a “Part 5.1 body”.

Cross reference: rule 3.10.1, Appendix 3B.

15.1.4 A notice of meeting which contains a resolution seeking an approval under the listing rules.

Introduced 01/07/96 Origin: Listing Rule 3E(7)(a) Amended 01/12/19

Cross reference: rules 3.10.3, 7.1, 7.1A, 10.11.

15.1.5 A document to be sent to the holders of quoted partly paid *securities concerning a call to be made or an instalment due on the *securities.

Introduced 01/07/96 Origin: Listing Rule 3F(1) Amended 01/12/19

Cross reference: Appendix 6A.

15.1.6 A document to be sent to the holders of quoted *convertible securities concerning the conversion or expiry of the *securities.

Introduced 01/07/96 Origin: Listing Rule 3G(3) Amended 01/12/19

Cross reference: Appendix 6A.

15.1.7 Any other document to be sent to holders of *securities in connection with seeking an approval under the listing rules.

Introduced 01/07/96 Origin: Listing Rules 3J(3)(f), 3N(1)(e), 3S(2)(b), 3W(1)(a)(i), 3W(2)(a) Amended 01/12/19

Cross reference: chapter 14.

Giving final documents to ASX

Place for lodging documents

15.2 To give a document to ASX, an entity must give it:

15.2.1 *to the *market announcements office*, if any of the following apply.

- The document is for release to the market.

Note: Drafts are given to the home branch.

Financial statements and annual reports are released to the market.

Cross reference: Guidance Note 14 ASX Market Announcements Platform.

- ASX has specified the *market announcements office as the place for giving ASX the document.
- The document is in response to correspondence from the *market announcements office.
- The document was sent to holders of the entity’s *securities.
- The document is a *disclosure document, *PDS, *information memorandum, *takeover document, document setting out the terms of *debt securities or *convertible debt securities, or copy of the entity’s constitution.
- The document is an Appendix 2A, Appendix 3B or Appendix 4A

Introduced 01/07/96 Origin: Listing Rule 3J(1)(a) Amended 01/07/97, 13/03/00, 01/07/00, 11/03/02, 01/01/03, 01/05/13, 19/12/16, 01/12/19

Cross reference: Listing rule 15.3; Guidance Note 14 ASX Market Announcements Platform.

15.2.2 *to the *home branch*, if any of the following apply.

- The document is not for release to the market.
Example: A draft document.
- ASX has specified the [†]home branch as the place for giving ASX the document.
- The document is in response to correspondence from the [†]home branch and ASX has not specified that the response is to be sent to the [†]market announcements office.

Introduced 01/07/96 Origin: Listing Rule 3J(1)(a) Amended 01/05/13

15.2.3 [Deleted]

Introduced 01/07/00 Amended 30/09/01 Deleted 01/01/03

Language of documents

15.2A A document given to ASX, whether for public release or otherwise, must be in English or accompanied by an English translation.

Introduced 01/01/12

Method of lodgement of documents

15.3 The following rules apply to documents given to ASX unless ASX agrees otherwise.

- (a) A document for release to the market must be given to ASX electronically.
- (b) Where ASX makes available on ASX Online a form relating to a matter, a document for release to the market in relation to that matter must be generated by completing the relevant form and:
 - (i) if the form includes a facility for submitting the form to ASX, by using that facility to lodge the form with ASX; or
 - (ii) if the form does not include a facility for submitting the form to ASX, by lodging the form on ASX Online in the same manner as any other release to the market.
- (c) Where an entity has lodged a form for release to the market in respect of a matter using a facility referred to in rule 15.3(b)(i), any change to the information in the form must be made by lodging an update to or cancellation of the original form using the same facility.

Introduced 01/07/96 Origin: Listing Rule 3J(1)(b) Amended 01/09/99, 01/07/00, 30/09/01, 01/01/03, 22/09/14, 01/12/19

Note: If asked, ASX will agree to accept proxy voting information under section 251AA of the Corporations Act in a non-electronic format, as it is required to do under that Act.

ASX Market Announcements does not otherwise accept hand delivered documents.

Cross reference: Listing rules 3.20.4, 4.7, 15.4; Guidance Note 14 – ASX Market Announcements Platform; Guidance Note 20 ASX Online.

15.3.1 A document is taken to be given to ASX electronically if each of the following requirements are met.

- ASX and the person giving the document to ASX have agreed, in writing, that documents of that kind may be given to ASX and authenticated electronically.
- ASX receives the document electronically.
- The entity meets the requirements set and published by ASX for giving a document to ASX electronically.

Introduced 01/07/00 Amended 01/01/03, 11/01/10

Note: If the document is not given to ASX because the entity does not comply with the agreement or the requirements, the entity will be in breach of the listing rule that requires the entity to give the document to ASX.

Cross reference: Guidance Note 20 - ASX Online

- 15.4 An entity must give ASX copies of documents as follows.

15.4.1 [Deleted]

Introduced 01/07/96 Amended 01/07/97, 01/07/98, 01/09/99 Deleted 01/01/03 Reintroduced 24/10/05
Deleted 02/11/15

- 15.4.2 One copy of its constitution, or documents setting out the terms of *debt securities or *convertible debt securities. The entity must also give ASX a copy of the consolidated, amended constitution or documents setting out the terms of debt securities or convertible debt securities after each amendment has been made.

Introduced 01/07/96 Origin: Listing Rule 3J(25)(b)

15.4A [Deleted]

Introduced: 01/01/03 Deleted 01/05/13

- 15.5 A document given by an entity to ASX must:

- (a) include, or be sent with a covering letter that includes, the entity's name, address and corporate logo, unless a form prescribed by the listing rules or an Australian law is used;
- (b) be dated;
- (c) identify the title of the body, or the name and title of the officer, of the entity who authorised the document to be given to ASX; and
- (d) if the document is an announcement under rule 3.1, include the name, title and contact details of a person who *security holders or other interested parties can contact if they have any queries.

Introduced 01/07/96 Origin: Listing Rule 3J(1)(c) Amended 01/12/19

Note: The reference in rule 15.5(c) to a body who authorised the document to be given to ASX includes the board, a committee or sub-committee of the board, or a disclosure committee of the entity.

- 15.5.1 Rule 15.5 does not apply to a document given to ASX electronically using a facility referred to in rule 15.3(b)(i).

Introduced 01/07/00 Amended 01/12/19

Documents not for release to the market

- 15.6 If a document is not for public release, the entity must prominently mark the document to make that clear. Information in a document that is marked in that way may be released to the market.

Introduced 01/07/96 Origin: Listing Rule 3J(1)(d), 3J(10)

Note: ASX will normally only release information in a document that is given to the home branch marked not for public release after ASX has told the entity that it will do so.

Example: A document marked on the front page "not for public release" meets this requirement.

Cross reference: Listing rule 15.8.

Entity not to release information to others before ASX

- 15.7 An entity must not release information that is for release to the market to any *person until it has given the information to ASX and has received an acknowledgement that ASX has released the information to the market.

Introduced 01/07/96 Origin: Listing Rule 3J(1)(f)

Note: This rule prohibits an entity giving information to the media even on an embargoed basis.

Cross reference: Listing rule 15.8.

- 15.7.1 However, an entity may release information that is for release to the market, if it becomes available outside the hours of operation of the ¹market announcements office, to an overseas stock exchange that requires it. In that case, the entity must give the information to the ¹market announcements office at the same time, together with advice that it has released it.

Introduced 01/07/96 Origin: Listing Rule 3J(1)(e) Amended 01/01/03, 01/05/13

No embargo

- 15.8 ASX does not recognise an embargo on a document given to it for public release.

Introduced 01/07/96 Origin: Listing Rule 3J(10)

Documents the property of ASX

- 15.9 A document given to ASX by an entity, or on its behalf, becomes and remains the property of ASX to deal with as it wishes, including copying, storing in a retrieval system, transmitting to the public, and publishing any part of the document and permitting others to do so. The documents referred to in this rule include a document given to ASX in support of a listing application or in compliance with the listing rules.

Introduced 01/07/96 Origin: Listing Rule 3J(10)

Sending documents to overseas security holders

General rule

- 15.10 A document that is to be sent to an overseas ¹security holder must be sent by air or by fax, or in another way that ensures it will be received quickly.

Introduced 01/07/96 Origin: Listing Rule 3J(18)

Note: This rule is satisfied either by air mail or fax to each holder, or by transport by air of all the documents and surface post to each holder in the country of destination.

Example: A document may be printed and posted in the country of destination at the same time it is printed and posted in Australia.

Cross reference: Listing rule 7.7.

Rules concerning an entity's constitution

General rule

- 15.11 An entity must have a constitution.

Introduced 01/07/96 Amended 01/07/98

- 15.11.1 If an entity amends its constitution, the constitution (including the amendments) must be consistent with the listing rules. This does not apply if the entity's constitution includes the provisions in Appendix 15A or Appendix 15B (as applicable).

Introduced 01/07/96 Amended 01/07/98

Note: If a listing rule has been waived on an on-going basis, the constitution must be consistent with the rules as waived. See rule 18.1.

The ASIC has issued Class Order 98/1808 to allow the constitution of a registered managed investment scheme to include a provision to the effect of Appendix 15A - see ASIC Policy Statement 134, Managed Investments: Constitutions.

Restricted securities

- 15.12 For so long as it has any ^{+restricted securities} on issue, an entity's constitution must provide for each of the following.
- 15.12.1 A holder of ^{+restricted securities} must not ^{+dispose of}, or agree or offer to ^{+dispose of} the ^{+securities} during the escrow period applicable to those ^{+securities} except as permitted by the listing rules or ASX.
- Introduced 01/07/96 Amended 01/12/19
- Note: If the constitution allows the restricted securities to be disposed of as permitted by the listing rules or ASX, no amendment is needed to permit the transfer of restricted securities if permission is given for that transfer (eg, in the case of a deceased holder).
- 15.12.2 If the ^{+restricted securities} are in the same ^{+class} as quoted ^{+securities}, the holder will be taken to have agreed in writing that the ^{+restricted securities} are to be kept on the entity's ^{+issuer} sponsored subregister and are to have a ^{+holding lock} applied for the duration of the escrow period applicable to those ^{+securities}.
- Introduced 01/12/19
- 15.12.3 The entity will refuse to acknowledge any ^{+disposal} (including, without limitation, to register any transfer) of ^{+restricted securities} during the escrow period applicable to those ^{+securities} except as permitted by the listing rules or ASX.
- Introduced 01/07/96 Origin: Listing Rules 1A(1)(b), 1A(1)(c)(i) Amended 01/12/19
- 15.12.4 A holder of ^{+restricted securities} will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those ^{+securities} except as permitted by the listing rules or ASX.
- Introduced 01/12/19
- 15.12.5 If a holder of ^{+restricted securities} breaches a ^{+restriction deed} or a provision of the entity's constitution restricting a ^{+disposal} of those securities, the holder will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of those ^{+securities} for so long as the breach continues.
- Introduced 01/07/96 Origin: Listing Rule 1A(1)(c)(iii) Amended 01/12/19
- Note: The definition of "dispose" includes using an asset as collateral. See chapter 19.
- Cross reference: chapter 9, Appendix 9A

Note: The changes to rule 15.12 made on 01/12/19 apply to entities admitted to the official list, or that issue restricted securities, on or after that date. Entities that were admitted to the official list and issued restricted securities before that date must continue to comply with the provisions of rule 15.12 in force immediately prior to that date.

Small holdings

- 15.13 An entity's constitution must not permit it to sell the ^{+securities} of a holder who has less than a ^{+marketable parcel} of those ^{+securities} unless the constitution provides for both of the matters in rule 15.13A or each of the following.
- 15.13.1 The entity may do so only once in any 12 month period.
- 15.13.2 The entity must notify the ^{+security holder} in writing of its intention.
- Note: In the notification to security holders, care should be taken not to mislead holders as to the nature of holding that is being sold. The fact that a holding is less than a "marketable parcel" for the purposes of the Listing Rules does not mean that the holding is not capable of being sold and hence it is potentially misleading to describe the sale as being a sale of an "unmarketable parcel".
- 15.13.3 The ^{+security holder} must be given at least 6 weeks from the date the notice is sent in which to tell the entity that the holder wishes to retain the holding.
- 15.13.4 If the ^{+security holder} tells the entity under rule 15.13.3 that the holder wishes to retain the holding, the entity will not sell it.

15.13.5 The power to sell lapses following the announcement of a *takeover. However, the procedure may be started again after the close of the offers made under the *takeover.

15.13.6 The entity or the purchaser must pay the costs of the sale.

15.13.7 The proceeds of the sale will not be sent until the entity has received any certificate relating to the *securities (or is satisfied that the certificate has been lost or destroyed).

Introduced 01/07/96 Origin: Listing Rule 3J(35) Amended 01/07/97, 01/09/99

Cross reference: ASX Settlement Operating Rule 5.12 requires a CHESS holding to be moved onto the Issuer Sponsored subregister or into certificated form before divestment. See also ASX Settlement Operating Rule 8.10.2.

15.13A The matters that the constitution must provide for are as follows.

15.13A.1 The divestment provisions only apply to *securities in a new holding created by the transfer of a parcel of *securities that was less than a *marketable parcel at the time the transfer document was initiated or, in the case of a paper based transfer document, was lodged with the entity. However, the provisions must not apply to *securities transferred before 1 September 1999.

Introduced 01/09/99 Amended 11/03/02

Cross reference: ASX Settlement Operating Rule 5.12 requires a CHESS holding to be moved onto the Issuer Sponsored subregister or into certificated form before divestment. See also listing rule 6.12.3, ASX Settlement Operating Rule 8.10.2 and ASX Market Schedule 9.1.3.

15.13A.2 The proceeds of sale of the *securities (less the costs of the sale) must be sent to the holder after the sale.

Introduced 01/09/99

15.13B If the constitution of an entity allows divestment of *securities under rule 15.13A, it may also permit the removal or change to a *security holder's right to vote or to receive dividends (in the case of a trust, distributions) for those *securities. The constitution must also provide for any dividends (in the case of a trust, distributions) that have been withheld to be sent to the holder after the sale.

Introduced 01/09/99

Cross reference: rule 6.10.5

Trusts

15.14 A trust which has provisions in its constitution relating to the acquisition of units above a limit or *substantial holdings must not have any sanctions or penalties in the constitution which entitle the responsible entity or any other party to enforce the provisions.

Introduced 01/07/96 Origin: Listing Rule 3J(31)(a) Amended 01/07/97, 01/07/98, 13/03/00, 30/09/01

Example: A trust has provisions in its constitution prohibiting anyone acquiring more than 15% of the units on issue without making an offer to all unitholders. The constitution must not have provisions allowing enforcement of this prohibition.

A trust has provisions in its constitution saying that a person who acquires more than 80% of the units on issue may compulsorily acquire the outstanding units. The constitution must not have provisions allowing enforcement of this right.

Foreign companies

15.15 A *foreign company's constitution must not include provisions relating to *takeovers or *substantial shareholdings.

15.15.1 A *foreign company listed before 1 July 1996 which has provisions relating to *takeovers or *substantial holdings in its constitution, must not have any sanctions or penalties in the constitution which entitle it or any other party to enforce any provisions

relating to *takeovers or *substantial holdings. If there are sanctions or penalties in the constitution, they must not be enforced.

15.15.2 This rule does not prohibit provisions relating to *takeovers or *substantial holdings required under the NZX Main Board Listing Rules.

Introduced 01/07/96 Origin: Listing Rule 3J(31)(b) Amended 01/07/97, 13/03/00, 19/12/16

Management agreements for investment entities (except pooled development funds)

15.16 A management agreement for an *investment entity (except a *pooled development fund) must provide for each of the following.

- (a) The manager may only end the management agreement if it has given at least 3 months' notice.
- (b) If the term of the agreement is fixed, it must not be for more than 5 years.
- (c) If the agreement is extended past 5 years, it will be ended on three months' notice after an ordinary resolution is passed to end it.

Introduced 01/09/99 Origin: Guidance note on investment entities.

15.16.1 This rule does not apply if the entity was admitted to the official list before 1 September 1999 and no restrictions on the term of its management agreement were applied by ASX on admission.

Introduced 01/09/99

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