



23 September 2021

Ms Lin Kang
Adviser, Listings Compliance (Sydney)
ASX Limited
20 Bridge Street,
Sydney NSW 2000

Dear Lin,

AXP ENERGY LIMITED ('AXP') – EARLY RELEASE OF INFORMATION QUERY

We refer to your letter of 16 September 2021 on the above subject. Please see our responses to each of your queries, as follows:

1. *Please explain how the information in the Announcement appeared in the Press Release.*

While negotiating the Heads of Agreement ('HOA') with Elite Mining Inc ('EMI') in August 2021, AXP agreed details with EMI of an announcement that AXP intended to make after the HOA was signed (the 'Draft Announcement').

AXP is aware that ASX has specific guidance related to any cryptocurrency related business and on this basis AXP submitted the Draft Announcement to ASX on Thursday, 12 August 2021 at 5:20pm AXP expected to sign the HOA either on Friday, 13 August 2021. AXP fully expected that, once the HOA was signed, the Draft Announcement would then be able to be promptly lodged by AXP and released on the ASX market announcement platform ('MAP').

Whilst EMI had been provided with the Draft Announcement to confirm the accuracy of its own release ('Press Release'), AXP did not, at any time, release any information pertaining in any way to the HOA publicly, nor did the Board give approval to EMI or executive management in the US to make any such release. However, AXP's US Management had indicated to EMI that, once HOA was signed, the Draft Announcement would be promptly released to the MAP and EMI would be able to release their Press Release (hence they did not breach the provisions of the HOA in respect of public release of information). This was a genuine oversight in our process, as we would normally hold the release of any announcement via an associated party until after the AXP release had been actually released on the MAP.

Once AXP's US Management were aware of EMI's Press Release, in the very early hours of Saturday 14 August 2021 (AEST), they requested to EMI that it be taken down, however, it had already been on-reported by this time.

2. *What arrangements does AXP have in place to ensure compliance with Listing Rule 15.7?*

AXP restricts the sharing of price sensitive information to employees who need to know or who are the originators. All AXP employees (particularly senior managers & officers) are expected to be aware of the ASX continuous disclosure requirements, including the fact that information that is for release to the market is confidential and cannot be released to external parties. Disclosure of price sensitive information is restricted and approved by the Board for release.

3. *If the current arrangements are inadequate or not being enforced, what additional steps does AXP intend to take to ensure compliance with Listing Rule 15.7?*

AXP considers that the arrangements it has in place are adequate. An oversight in this instance was that the Company Secretary was unaware that the EMI Press Release had been drafted or a release was planned and was operating in the belief that control over information was maintained. AXP understands that EMI believed it could allow the release of the Press Release once the HOA was executed.

The Press Release made by EMI was not within the control of AXP. Further, AXP held a genuine belief that there would not be any significant delays in AXP lodging the Draft Announcement for release on MAP. AXP is also of the view that it was reasonable for EMI to make its own press release in a timely manner after execution of the HOA. AXP's view is that EMI's actions did not result in AXP breaching Listing Rule 15.7.

AXP has promulgated its Continuous Disclosure Policy to all relevant management and officers to ensure future compliance.

4. *Please confirm that AXP's responses to the above have been authorised and approved under its published continuous disclosure policies or otherwise by its board or an officer of AXP with delegated authority from the board to respond to ASX on disclosure matters.*

This response has been approved by AXP's Board of Directors.

Please call or email if you require any further information.

Yours faithfully



Robert Lees
Company Secretary
AXP Energy Limited

For personal use only



16 September 2021

Reference: 39743

Mr Robert Lees
Company Secretary
AXP Energy Limited
Suite 302, Level 3
17 Castlereagh St
Sydney NSW 2000

By email

Dear Mr Lees

AXP Energy Limited ('AXP'): Early release of information query

ASX Limited ('ASX') refers to the following:

- A. AXP's request for a voluntary suspension released on the ASX market announcements platform ('MAP') together with ASX's market announcement regarding the voluntary suspension at 12:01pm AEST on 16 August 2021. The voluntary suspension was requested *'pending the release of an announcement of a material Heads of Agreement ...'*
- B. The press release titled 'Elite Mining Inc. Reaches Partnership Agreement to Power Bitcoin Miners' published by *NewsWire.com*¹ on 13 August 2021 (and subsequently published on websites including *Yahoo Finance* and *Bloomberg*) in which Elite Mining Inc announced details of a Heads of Agreement with AXP (the 'Press Release').
- C. AXP's announcement titled 'HOA Signed to Establish In Situ Well Site Power Generation Operations With Elite Mining, Inc' released on MAP on 15 September 2021 in which AXP disclosed a material Heads of Agreement with Elite Mining Inc (the 'Announcement').
- D. Listing Rule 3.1 which 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 immediately tell ASX that information.'
- E. Listing Rule 15.7 which states:
'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 acknowledgment that ASX has released information to the market.'

Listing Rule 15.7 requires that a listed entity not release information which is for release to the market to any person (including the media, even on an embargoed basis) until it has given the information to ASX and received an acknowledgement that ASX has released it to the market.

As the Press Release was published on *NewsWire.com* (and also published by other websites including *Yahoo Finance* and *Bloomberg*) prior to the Announcement being lodged and released to the market, it appears that AXP may have breached Listing Rules 3.1 and/or 15.7.

¹ See <https://www.newswire.com/news/elite-mining-inc-partners-with-axp-21470802>

Questions and Request for Information

Having regard to the above, ASX asks AXP to respond separately to each of the following questions and requests for information:

1. Please explain how the information in the Announcement appeared in the Press Release.
2. What arrangements does AXP have in place to ensure compliance with Listing Rule 15.7?
3. If the current arrangements are inadequate or not being enforced, what additional steps does AXP intend to take to ensure compliance with Listing Rule 15.7?
4. Please confirm that AXP's responses to the above have been authorised and approved under its published continuous disclosure policies or otherwise by its board or an officer of AXP with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:30am AEST on Monday, 20 September 2021**.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to AXP's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1-3.1B*. It should be noted that AXP's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Questions

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

Lin Kang
Adviser, Listings Compliance (Sydney)