



ASX Listings Compliance Activities Report

1 September 2024 - 31 December 2024

Background

As the licensed operator of a listing market, ASX is obliged under the Corporations Act 2001 (Cth)¹ to have adequate arrangements for monitoring and enforcing compliance with its listing rules. Those arrangements are administered by the ASX Listings Compliance team.

The ASX Listings Compliance team also assesses whether applications for admission to the ASX official list conform to the requirements of the listing rules and processes applications for waivers of the ASX listing rules.

ASX's listing rules serve the interests of listed entities and investors, both of whom have a vital interest in maintaining the reputation and integrity of the ASX market and ensuring that it is internationally competitive and facilitates efficient capital raising.

ASX has an absolute discretion concerning the admission of an entity to the official list and the quotation of its securities. ASX also has broad discretions under the listing rules whether to require or waive compliance with the listing rules in a particular case, to remove an entity from the official list and to suspend its securities from quotation.

In exercising these discretions, ASX takes into account the principles on which the listing rules are based (as set out in the introduction to the listing rules) and the imperative of maintaining the reputation, integrity and efficiency of the ASX market.

To enhance transparency and assist stakeholders to understand how ASX interprets and applies the listing rules, ASX publishes on a quarterly basis² high level reasons why it has refused or indicated an intention to refuse certain listing applications³ and why it has rejected certain waiver applications, as well as information about some of its other activities monitoring and enforcing compliance with the listing rules.

Listing applications

During the period of this report, ASX admitted 12 entities to the ASX official list and quoted their securities and reinstated the securities of 3 entities to quotation following a backdoor listing. ASX refused or indicated that it would be likely to refuse 1 application for the reasons summarised in the table below.

The table below includes, as applicable:

- A. applications for admission that ASX has refused;
- B. applications for admission that ASX has indicated an intention to refuse;
- C. requests to approve a notice of meeting containing a resolution of security holders seeking approval for a backdoor listing transaction that ASX has declined to approve on the basis that ASX is likely to refuse the entity's application for readmission in due course; and
- D. requests for in-principle advice on the suitability of an entity for listing where ASX has indicated that it is likely to refuse the entity's application for admission if the entity proceeds to make a formal application.

¹ Referred to in this publication as the 'Corporations Act'. Unless otherwise indicated, references in this publication to a section of an Act are to a section of the Corporations Act.

² This information is published by ASX in performance of its obligations under the Corporations Act and in particular sections 792A(a) and (c). ASX also publishes details of waivers granted by ASX on the ASX website twice monthly in the form of a waivers register.

³ It should be noted that this is a point-in-time publication reflecting applications to be admitted to the official list as an ASX Listing or ASX Foreign Exempt Listing, where ASX has indicated during the period of this report that it intends to decline the application. Some of the entities mentioned in this or in earlier editions of this publication whose listing applications ASX indicated an intention to decline may have since restructured their proposals to address ASX's concerns. It should also be noted that this publication does not include data on ASX Debt Listings.

Refusal type	Summary of reasons
D	The entity had significant near term financial commitments and it did not have any definitive arrangements to meet these commitments after listing. ASX had concerns that at the time of admission, the entity would not have sufficient working capital to meet its stated objectives. ASX was also concerned about unacceptable prior dealings with the proposed managing director and the proposed chief financial officer. These unacceptable prior dealings occurred when the managing director and chief financial officer held equivalent positions at an unrelated listed entity where significant market disclosure issues were identified.

Waiver applications

During the period of this report, ASX granted 157 waivers and declined 12 waivers of the listing rules. ASX's reasons for declining those waivers are summarised in the table below.

Rule Number	Reason for not granting waiver
10.13.5	The entity wished to issue securities in circumstances that would require security holder approval under Item 7 of section 611 of the Corporations Act if the securities were issued within the timeframe required by Listing Rule 10.13.5. The entity sought a waiver to permit the securities to be issued at a later time that would not require security holder approval under Item 7 of section 611 of the Corporations Act. The waiver was refused on the basis that the entity would not need the waiver if it obtained security holder approval under Item 7 of section 611.
7.3.4 4 separate waivers	<p>In three cases, ASX refused to grant the waiver because it related to deferred consideration that would be issued after a period of time without any other conditions or performance milestones needing to be satisfied. There was no compelling reason why the securities could not be issued sooner in compliance with the rule.</p> <p>In the fourth case, the entity wished to seek security holder approval for an agreement to issue convertible securities more than three months after obtaining shareholder approval. The waiver was refused as no reason was put forward for the delay in issuing the convertible securities other than the entity's convenience.</p>
7.3.9	The waiver was refused in circumstances where the notice of meeting was finalised and released before ASX could consider the waiver application.
6.23.3 2 separate waivers	<p>In the first case, the entity sought a waiver to enable it to increase the exercise period of options issued to its directors. The options had been approved under Listing Rule 10.11 before they were issued, and the possibility of the change was not disclosed specifically and prominently in the original notice of meeting. The waiver was refused because it would have the effect of undermining the original Listing Rule 10.11 approval.</p> <p>In the second case, the entity had sought waivers from Listing Rules 6.23.2, 6.23.3 and 6.23.4 for proposed changes to employee incentive scheme securities in the context of an M&A transaction. The entity's submissions did not clearly explain why a Listing Rule 6.23.3 waiver was required for the proposed changes. The waiver was refused and the entity was advised to seek security holder approval for the change under Listing Rule 6.23.4.</p>
10.7	The entity issued consideration securities to a Listing Rule 10.1 party without security holder approval in breach of Listing Rule 10.1. The transaction related to a classified asset so the securities were required to be restricted securities under Listing Rule 10.7. ASX identified the breach and the entity took steps to remedy it, including applying restrictions to the securities. The entity then sought a waiver so that the restrictions could be lifted. The waiver was refused.

10.1	The entity sought a waiver to facilitate the participation of substantial (10%+) holders in an off market buy-back that would be operated as an equal access scheme. The scale back arrangements were designed to favour small holders. However, given the buy-back was being conducted at a fixed price, a shift in value to a substantial (10%+) was a possibility having regard to the level of liquidity in the entity's securities. Substantial (10%+) holders could potentially receive a greater benefit from the buy-back than other holders because they may otherwise be unable to significantly sell down their holdings on market without triggering a fall in the price of the entity's securities.
6.23.2	The entity sought a waiver to enable it to cancel performance rights for consideration without security holder approval in the context of an M&A transaction. The entity submitted that the circumstances were analogous to a change of control transaction where ASX commonly grants waivers to permit the cancellation of options for consideration without security holder approval. The waiver was refused on the basis that the entity would remain listed after the transaction and the transaction did not involve a scheme meeting requiring a special majority of security holders or a takeover bid (where a condition of any waiver would be that the bidder acquires voting power of at least 90% and sends notices of compulsory acquisition).
14.7	The entity sought a waiver to permit it to issue securities to a corporate advisory service provider later than the three months after the entity had obtained security holder approval to issue the securities under Listing Rule 7.1. The agreement with the adviser required the issue of securities on a monthly basis over a 12 month period extending beyond the three month period permitted by Listing Rule 7.3.4. The waiver was refused as the agreement had not been affected by any unforeseen circumstances outside of the control of the entity and the entity was expected to arrange its affairs so that it can comply with the rules without a waiver.

Enforcement letters

During the period of this report, ASX issued the following enforcement letters:

Type	Number of letters
Price query ⁴	75
Aware ⁵	27
Show cause ⁶	-
ASIC referral ⁷	10

⁴ ASX will generally issue a 'price query letter' when it detects abnormal trading in an entity's securities and, in its discussion with the entity about the matter, the entity tells ASX that it is not aware of any information which has not been announced to the market and which could explain the abnormal trading. For further information about price query letters, see section 8.3 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

⁵ ASX will typically issue an 'aware letter' to the entity when it has concerns about whether an entity has disclosed market sensitive information at the time it should have under listing rule 3.1. The letter will ask when the entity became aware of the information in question and test when it should have been disclosed under the listing rule 3.1. For further information about aware letters, see section 8.4 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

⁶ A 'show cause letter' is a letter initiating a process to terminate an entity's admission to the official list under listing rule 17.12. It will outline the reasons why ASX is proposing to terminate the entity's admission to the official list and ask it to 'show cause' why it should not be removed from the official list.

⁷ If ASX suspects that an entity has committed a significant contravention of the listings rules, or that a listed entity or any other person (such as a director, secretary or other officer of a listed entity) has committed a significant contravention of the Corporations Act, it is required under section 792B(2)(c) of the Corporations Act to give a notice to ASIC with details of the contravention. The purpose of the notice is so that ASIC can then consider what enforcement action, if any, it may wish to take in relation to the suspected contravention.

Censures

During the period of this report, ASX did not censure any entities.

Listed@ASX compliance updates

Listed@ASX Compliance Updates are free email alerts sent to subscribers to advise of market developments, including proposed changes to ASX listing rules and guidance notes, and to provide guidance on topical or emerging compliance issues. You can subscribe to and view *Listed@ASX Compliance Updates* [here](#).

During the period of this report, ASX released the following Listed@ASX Compliance Updates:

Update	Summary
11/24	Published on 11 October 2024 with a reminder that when completing Appendix 3C <i>Notification of Buy-back</i> in relation to an on-market buy-back, listed entities should seek consent from any broker whose name they include in the form.
12/24	Published on 19 December 2024 covering: <ul style="list-style-type: none">• The procedures for requesting a trading halt.• Reminder that an ASX Foreign Exempt Listing is required to immediately request a trading halt or suspension if the entity's securities are halted or suspended from quotation on its overseas home exchange.• Reminder for listed entities who wish to take advantage of the facility in CHESS to tag securities as being subject to foreign ownership restrictions to follow the application process and timeframes outlines in Guidance Note 13 <i>Financial products subject to foreign ownership restrictions</i>.
