



# Public Consultation

**Proposed ASX rule amendments to facilitate the listing of CCIVs and certain other collective investment vehicles on the ASX market and the quotation of their products on the ASX AQUA market**

**1 February 2022**

## Invitation to comment

ASX is seeking submissions on proposed changes to the ASX Listing Rules and ASX Operating Rules to facilitate the listing of CCIVs and certain other collective investment vehicles on the ASX market and the quotation of their products on the ASX AQUA market.

Submissions are due by **Friday, 18 March 2022** and should be sent by email to:

[kevin.lewis@asx.com.au](mailto:kevin.lewis@asx.com.au)

or by mail to:

ASX Limited  
PO Box H224  
Australia Square NSW 1215  
Attention: Kevin Lewis

ASX would prefer to receive submissions in electronic form.

Submissions not marked as 'confidential' will be made publicly available on the ASX website.

If you would like your submission, or any part of it, to be treated as confidential, please indicate this clearly in your submission.

### Contacts

For general enquiries, please contact:

**Kevin Lewis**

T +61 2 9227 0771

E [kevin.Lewis@asx.com.au](mailto:kevin.Lewis@asx.com.au)

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## 1. Introduction

In November 2009, the Australian Financial Centre Forum released a report entitled *Australia as a Financial Centre: Building on our Strengths* (the '**Johnson Report**'). The Johnson Report made several policy recommendations aimed at increasing Australia's cross-border trade in financial services and improving the competitiveness and efficiency of the financial sector. These included recommendations that Australia and other participating countries develop an Asia Region Funds Passport ('**ARFP**') to support the development of an Asia-wide managed funds industry and to introduce a new and more internationally-recognisable form of collective investment vehicle to facilitate Australia's participation in the ARFP. The then Government accepted these recommendations.

In the 2016-17 Budget, the Government announced it would introduce a regulatory and tax framework for corporate collective investment vehicles ('**CCIVs**'), a new type of funds management vehicle similar to UK open-ended investment companies (also known as OEICs) and European undertakings for collective investments in transferable securities (or UCITS). In the 2021-22 Budget, the Government reconfirmed its commitment to introducing a regulatory and tax framework CCIVs and announced its intention to do so by 1 July 2022.

On 25 November 2021, the Government tabled in Parliament the *Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021* ('**Bill**')<sup>1</sup> to establish the regulatory and tax framework in Australia for CCIVs. If enacted, the Bill will insert a new Chapter 8B into the *Corporations Act 2001* (Cth),<sup>2</sup> with effect on 1 July 2022, providing for the establishment of CCIVs and setting out the operational and regulatory requirements they must meet.

In the meantime, the ARFP has been established pursuant to a memorandum of co-operation signed by the participating countries, being currently Australia, Japan, the Republic of Korea, New Zealand, Singapore and Thailand. The necessary legislation to underpin the ARFP in Australia was enacted in 2018 through the adoption a new Chapter 8A of the Corporations Act, regulations made under that Chapter, and the Corporations (Passport) Rules 2018. Together, these provisions allow qualifying issuers of funds management products from ARFP participating countries to formally notify ASIC of their intention to offer their products in Australia, thereby becoming a 'notified foreign passport fund' ('**NFPF**'). For so long as they remain an NFPF, they are able to offer their products in Australia with limited additional regulatory obligations.

More information about the ARFP and how it applies to NFPFs can be found in [ASIC Regulatory Guide 138 Foreign Passport Funds](#).

## 2. A brief introduction to CCIVs

As mentioned previously, a CCIV is a new type of funds management vehicle. It is a company limited by shares that has as its sole director a public company with an Australian financial services licence authorising it to operate the business and conduct the affairs of the CCIV (the '**CCIV corporate director**'). A CCIV does not have individual directors or staff. Instead, the board of directors of the CCIV corporate director is ultimately responsible for managing the CCIV's business. The CCIV corporate director also employs the staff and engages any other agents needed to operate the CCIV's business.

A CCIV is required to have one or more registered sub-funds. A CCIV's initial sub-fund or sub-funds are registered by ASIC as part of the registration process for the CCIV. Further sub-funds may be registered with

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<sup>1</sup> Available online at [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r6817](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6817).

<sup>2</sup> Referred to in this consultation paper as the 'Corporations Act'.

ASIC after the CCIV has been registered. Each sub-fund must have its own name and is given its own Australian registered fund number (or ARFN).

Each of its assets and liabilities of a CCIV must be allocated to the various sub-funds it operates in accordance with prescribed allocation rules.<sup>3</sup> The CCIV corporate director, as the operator of the CCIV, is required to maintain an allocation register identifying which assets and liabilities of the CCIV are allocated to which sub-fund. Each security issued by the CCIV must also be referable to a particular sub-fund.

A CCIV, therefore, is effectively an umbrella structure for one or more separate sub-funds. Each sub-fund is a notional or economic entity comprising all (if there is only one sub-fund) or part (if there are multiple sub-funds) of the business of the CCIV. Each sub-fund notionally has its own assets and liabilities and its own security holders and is required to be operated as a separate business to any other sub-fund the CCIV may have.

A CCIV sub-fund, however, does not have legal personality<sup>4</sup> and is not a separate legal entity. This creates some complexities in applying certain laws and rules at the sub-fund level, which are yet to be fully ironed out (see section 4 below).

CCIVs will be taxed in Australia on a 'flow through' basis, with each sub-fund effectively treated as a separate unit trust for tax purposes.

A CCIV may be either retail or wholesale, with retail CCIVs subject to additional regulatory protections appropriate for retail investors. Wholesale CCIVs are subject to a more limited regulatory framework, reflecting the higher degree of investor sophistication among wholesale investors and their capacity to negotiate bespoke arrangements with funds management service providers.

ASX anticipates that over time CCIVs are likely to become the preferred funds management vehicle in Australia. Given that, ASX wants to be able to offer CCIV sub-funds access to the distribution available on the ASX and the ASX Quoted Assets ('AQUA') market platforms and to offer investors access via the ASX and AQUA markets to the investment opportunities that CCIV sub-funds will provide. ASX also wants to be able to offer those funds that choose not to list on ASX or trade on the AQUA market the settlement and other back-office efficiencies available through participation in its Managed Fund Settlement Service ('mFund').

### 3. The purpose of this consultation paper

The purpose of this consultation paper is to seek feedback on changes ASX is proposing to:

- the ASX Listing Rules to facilitate the listing of:
  - CCIV sub-funds
  - NFPFs, and
  - NZ registered managed investment schemes making a 'recognised offer of securities' (**'recognised NZ schemes'**)on the ASX market, and
- the ASX Operating Rules to facilitate the admission of:
  - CCIV sub-fund products
  - NFPF products, and

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<sup>3</sup> If the CCIV has only one sub-fund, all of its assets and liabilities are attributed to that one sub-fund.

<sup>4</sup> See section 1222Q of the Corporations Act, to be introduced by the Bill.

- securities issued by recognised NZ schemes pursuant to a ‘recognised offer of securities’ to trading status on the AQUA market or for settlement through mFund.<sup>5</sup>

The reasons for the proposed amendments related to CCIVs and their sub-funds will be apparent from section 2 above.

The proposed amendments related to NFPFs and recognised NZ schemes are included in this consultation for completeness. In this regard, NFPFs have the benefit of the ARFP mutual recognition arrangements set out in Chapter 8A of the Corporations Act and explained further in [ASIC Regulatory Guide 138 Foreign Passport Funds](#). Recognised NZ schemes have the benefit of the mutual recognition arrangements set out in Chapter 8 of the Corporations Act and explained further in [ASIC Regulatory Guide 190 Offering financial products in New Zealand and Australia under mutual recognition](#). Currently, however, ASX’s rules do not specifically cater for the listing of NFPFs or recognised NZ schemes or for the admission of their products as AQUA products.

It should be noted that:

- under the ASX Listing Rules, admission to the official list of ASX is only available to closed-ended funds (ie a fund where the number of shares/units on issue is effectively fixed for the time being and investors wanting to buy or sell securities in the fund do so on-market), and
- under the ASX Operating Rules, admission to trading status of the AQUA market is only available to open-ended funds (ie a fund where the number of shares/units on issue goes up or down with investor applications and redemptions).

The proposed amendments to the ASX Listing Rules and Operating Rules preserve this position.

#### 4. Section 1222N

The Bill provides for the introduction of a new section 1222N into the Corporations Act. That section provides that a CCIV or a CCIV sub-fund may be included in the official list of a prescribed financial market operated in Australia (such as ASX) only if the CCIV is a retail CCIV and only if it has one sub-fund. Retail CCIVs with more than one sub-fund, sub-funds of retail CCIVs with more than one sub-fund, and wholesale CCIVs and their sub-funds, will all be prohibited from being listed.

Section 1222N is an interim constraint that has been imposed to allow further time for the Government to consider and address some of the legal complexities (including under the laws relating to takeovers, substantial holdings and continuous disclosure obligations) arising from the way in which CCIVs are structured.<sup>6</sup> These complexities stem from the fact that a CCIV is effectively an umbrella structure for the underlying sub-funds that have no separate legal personality. The CCIV has all of its assets and liabilities

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<sup>5</sup> Financial products admitted to trading status on the ASX AQUA market or for settlement through mFund are referred to in the ASX Operating Rules as ‘AQUA products’.

<sup>6</sup> See the following statement in the cover note to Treasury’s consultation package (available online at [https://treasury.gov.au/sites/default/files/2021-08/c2021-200373\\_cover\\_note.pdf](https://treasury.gov.au/sites/default/files/2021-08/c2021-200373_cover_note.pdf)):

‘As suggested by stakeholders in previous consultation, a staged approach to the listing of CCIVs has been adopted. This approach allows for the listing of retail CCIVs with one sub-fund on a prescribed financial market in Australia (such as the ASX) from 1 July 2022. This provides listed retail CCIVs with similar access to listing on a prescribed financial market as registered schemes. It also ensures CCIVs with illiquid assets can access platforms on the financial market, enhancing the commercial viability of the CCIV regime.

The ability to quote securities of a CCIV on other platforms (such as AQUA) is maintained and is not affected by the fact that listing of retail CCIVs is limited to CCIVs with one sub-fund.

The listing of retail CCIVs with more than one sub-fund will be considered following the initial establishment of the CCIV regime. The phased approach recognises the complexities of facilitating the listing of CCIVs with multiple sub-funds, as this would involve applying different levels and types of regulatory requirements to part of a company (but not all). The listing of only one or a set of sub-funds within a CCIV requires further development with stakeholders.’

allocated to, and effectively holds them for the benefit of the shareholders in, the underlying sub-funds Restricting a listed CCIV to having only one sub-fund therefore ensures that the CCIV and the sub-fund are effectively one and the same, avoiding these complexities.

The Government has indicated that it will consider the listing of CCIVs with multiple sub-funds after the initial establishment of the CCIV regime.<sup>7</sup>

ASX considers that amending section 1222N in due course to allow retail CCIVs with multiple sub-funds to be listed on a prescribed financial market operated in Australia will be critical to the Government achieving the ambitious aims it has set for the new CCIV regime. Ideally, a CCIV should be able to operate a multitude of sub-funds, some of which could be listed on a prescribed financial market, some of which could be quoted on a market for investment products such as ASX's AQUA market, and some of which could be neither listed nor quoted on a market. Restricting a listed CCIV to operating only one sub-fund will detract significantly from the flexibility and administrative efficiencies that the CCIV regime is intended to provide.

ASX's proposed changes to the Listing Rules have been drafted in anticipation of section 1222N being amended in due course to allow a retail CCIV to list multiple sub-funds on the ASX equities market. For the time being, however, until section 1222N is amended, ASX will administer the ASX Listing Rules so that a CCIV may only list on ASX if it has a single sub-fund.

It should be noted that the restrictions on listing CCIVs in section 1222N do not apply to the admission of CCIV securities to trading status on the AQUA market, nor to the admission of CCIV securities for settlement through mFund. The securities of a retail CCIV sub-fund may be admitted to trading status on the AQUA market or for settlement through mFund regardless of the number of sub-funds the CCIV has.

## 5. An overview of the proposed ASX rule amendments

The proposed amendments to the ASX Listing Rules to facilitate the listing of:

- CCIV sub-funds
- NFPFs, and
- recognised NZ schemes

on the ASX market are set out in mark-up in Annexure A. References in that annexure to a rule are to an ASX Listing Rule.

The proposed amendments to the ASX Operating Rules to facilitate the admission of:

- CCIV sub-fund products
- NFPF products, and
- securities issued by recognised NZ schemes pursuant to a 'recognised offer of securities'

as AQUA products<sup>8</sup> are set out in mark-up in Annexure B. References in that annexure to a rule are to an ASX Operating Rule.

Each Annexure has detailed drafting notes explaining the purpose of the proposed amendments.

As will be apparent from the respective sizes of Annexures A and B, the number and scope of the changes required to the Listing Rules to facilitate the listing of CCIV sub-funds, NFPFs and recognised NZ schemes on ASX are substantially greater than the number and scope of the changes required to the ASX Operating Rules to facilitate the quotation of their products on the ASX AQUA market. There are two primary reasons for this.

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<sup>7</sup> See the materials cited in note 6 above and the Explanatory Memorandum to the Bill at paragraph 1.33.

<sup>8</sup> See note 5 above.

First, given the manner in which the enabling legislation for CCIVs provides for a CCIV's assets and liabilities to be attributed to its individual sub-funds and effectively held for the benefit of the security holders whose securities are referable to the relevant sub-fund, as a practical matter, a CCIV cannot be admitted to the official list in its own right, at least where it has multiple sub-funds. It necessarily has to be the particular CCIV sub-fund, rather than the CCIV, that is admitted to the official list and is the 'listed entity' for the purposes of the Listing Rules. This applies even though the sub-fund is not an entity with its own legal personality. In this regard, the position is not dissimilar to a listed trust. When the responsible entity of a trust successfully applies for the trust to be admitted to the official list, the name of the trust is entered on the ASX official list (thereby resulting in it becoming a 'listed trust'). This applies even though the trust is not technically a legal entity in its own right.

The current Listing Rules have been drafted on the predication that listed entities will either be companies or trusts. CCIV sub-funds are neither companies nor trusts and so, if they are to list on ASX, it is necessary to amend the Listing Rules to permit this and also to update all of the Listing Rules that expressly or impliedly refer to, or draw a distinction between, listed companies and listed trusts so that they appropriately apply where the listed entity is a CCIV sub-fund.

Secondly, in conjunction with the changes to facilitate the listing of CCIV sub-funds, NFPFs and recognised NZ schemes, ASX is also proposing to remove all of the current references in the Listing Rules to a listed 'trust'. Depending on the context in which the term appears, these references will be replaced either by a reference to:

- (1) a listed entity 'that is not a company', or
- (2) a listed 'managed investment scheme', the more accurate term under the Corporations Act to describe a listed trust.

In case (1) above, any reference to the board of a 'listed entity' or the 'responsible entity' of the listed trust will be replaced by a reference to the 'governing body' of the listed entity.

The 'governing body' of:

- a management investment scheme (including a 'recognised NZ scheme') that is not an NFPF will be the responsible entity of the scheme, as is currently the case under the Listing Rules
- a CCIV sub-fund will be the CCIV corporate director, and
- an NFPF will be 'operator' of the NFPF.

To achieve the aims set out above requires multiple amendments to the interpretation provisions and definitions in Chapter 19 of the Listing Rules, including:

- updating the existing interpretation provisions for managed investment schemes in Listing Rule 19.11B and for stapled entities in Listing Rule 19.11C (to be renumbered as Listing Rule 19.11E in the proposed amendments)
- adding new interpretation provisions for CCIV sub-funds in Listing Rule 19.11C and for NFPFs in Listing Rule 19.11D
- adding new definitions of the generic terms 'company', 'managed investment scheme', 'governing body', 'private trust', 'reporting entity' and 'audit committee', and updating the existing definition of 'remuneration committee'

- updating the existing definitions of ‘Australian company’ and ‘Australian entity’, replacing the existing definition of ‘Australian trust’ with ‘Australian scheme’, and adding a new definition of ‘Australian registered scheme’
- updating the existing definitions of ‘foreign company’ and ‘foreign entity’ and replacing the existing definition of ‘foreign trust’ with ‘foreign scheme’
- adding new definitions relevant to CCIVs such as ‘CCIV’, ‘CCIV corporate director’, ‘retail CCIV’, ‘sub-fund’ and ‘sub-fund securities’
- adding new definitions relevant to NFPFs such as ‘foreign passport entity’, ‘operator’ and ‘sub-fund’
- adding new definitions relevant to managed investment schemes such as ‘exempt scheme’ and ‘wholesale scheme’ and updating the existing definition of ‘responsible entity’, and
- adding new definitions relevant to NZ entities such as ‘NZ registered scheme’, ‘NZ company’, ‘NZ entity’ and ‘manager’ (the responsible entity of an NZ registered scheme), and consequential amendments to the definition of ‘qualifying NZ entity’.

These changes also require consequential amendments to the definitions in Listing Rule 19.12 of terms such as ‘associate’, ‘aware’, ‘child entity’, ‘control’, ‘directors’ declarations’, ‘directors’ report’, ‘employee incentive scheme’, ‘externally-managed’, ‘internally-managed’, ‘ordinary securities’, ‘notifiable interest’, ‘related party’, ‘substantial holder’, ‘substantial (10%+) holder’ and ‘substantial (30%+) holder’.

To facilitate and simplify the drafting of the new and amended provisions above, ASX is also proposing to add new definitions in Listing Rule 19.12 of the terms ‘recognised offer of securities’, ‘registered as a foreign company carrying on business in Australia’, ‘relevant percentage interest’ and ‘voting security’.

To provide context and to make it easier to follow the proposed amendments to the body of the Listing Rules, ASX has set out first in Annexure A its proposed changes to the interpretation provisions and definitions in Chapter 19 of the Listing Rules, before setting out the balance of the changes it proposes to the ASX Listing Rules.

Most of the changes to the balance of the Listing Rules outside of Chapter 19 would fairly be described as minor consequential changes of a technical nature. However, ASX would call out that there are some substantive changes proposed to:

- the admission conditions in Listing Rules 1.1 (standard ASX listings), 1.8 (debt listings) and 1.11 (foreign exempt listings), and
- the directors’ interest notification provisions in Listing Rules 3.19A and 3.19B.

ASX is particularly interested in stakeholder feedback on the proposed changes to the admission conditions and the directors’ interest notification provisions in the Listing Rules.

In contrast to the changes required to the Listing Rules, the number and scope of the changes required to the Operating Rules to facilitate the admission of CCIV sub-fund products, NFPF products and securities issued by recognised NZ schemes pursuant to a ‘recognised offer of securities’ as AQUA products are relatively modest and include:

- adding new definitions to Operating Rule 7100 relevant to CCIVs such as ‘CCIV’, ‘CCIV Corporate Director’ and ‘CCIV Sub-fund’
- adding new definitions to Operating Rule 7100 relevant to NFPFs such as ‘Notified Foreign Passport Fund’ and ‘Operator’, and



- updating the existing definitions of ‘ETF’ and ‘Managed Fund’ in Operating Rule 7100.

## 6. Issues for consultation

The purpose of this consultation is to seek feedback from interested stakeholders on the proposed changes to the ASX Listing Rules and ASX Operating Rules set out in Annexures A and B.

ASX acknowledges that many of the proposed rule changes are fairly ‘technical’ in nature and are likely to be of primary interest to organisations in the funds management industry and to industry bodies and professional advisers representing those organisations. ASX is particularly keen to receive feedback from those stakeholders but welcomes feedback from any party having an interest in the proposed rule amendments.

ASX would welcome feedback from stakeholders on the following:

- generally, whether they agree or disagree with ASX’s proposed rule changes and, if they disagree, the reasons why
- in particular, any concerns they may have with the proposed amendments mentioned in section 5 above to:
  - the admission conditions in Listing Rules 1.1 (standard ASX listings), 1.8 (debt listings) and 1.11 (foreign exempt listings), and
  - the directors’ interest notification provisions in Listing Rules 3.19A and 3.19B
- any issues or concerns they may have with ASX’s proposed approach of admitting a CCIV sub-fund to the official list rather than the CCIV itself
- whether ASX should make allowance in the Listing Rules for a CCIV that only has, and only intends to have, one sub-fund, to be admitted to the official list in its corporate capacity rather than requiring the sub-fund to be admitted to the official list and, if so, the reasons why
- whether stakeholders see a commercial case for allowing wholesale CCIVs to be admitted to the ASX official list as ASX Debt Listings so that they can issue wholesale debt securities in the ASX Wholesale Debt Securities Market<sup>9</sup> – if stakeholders display sufficient interest in this possibility, ASX will liaise with Treasury to seek to have section 1222N<sup>10</sup> amended in due course to allow such admissions
- whether New Zealand stakeholders have any issues or concerns with the approach ASX has taken to facilitate the listing of NZ NFPFs and recognised NZ schemes on ASX and the quotation of their financial products on the ASX AQUA market, and
- whether compliance with any of the amended rules might have any unforeseen consequences or give rise to undue compliance burdens for listed entities or approved AQUA product issuers.

## 7. Due date for consultation responses

Stakeholders interested in making a submission on the consultation package are asked to do so in writing by the **close of business on Friday 18 March 2022**.

Submissions should be sent to by email to:

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<sup>9</sup> Wholesale debt securities can only be traded by wholesale clients and are not quoted on the ASX market. They are traded over-the-counter and are settled through Austraclear rather than through CHESS (see <https://www2.asx.com.au/issuers/debt-securities/listed-debt-securities>).

<sup>10</sup> Referenced in section 4 above.



[kevin.lewis@asx.com.au](mailto:kevin.lewis@asx.com.au)

or by mail to:

ASX Limited  
PO Box H224  
Australia Square NSW 1215  
Attention: Kevin Lewis

ASX would prefer to receive submissions in electronic form.

Please note that ASX is proposing to make the submissions it receives in response to this consultation paper publicly available on its website unless a respondent clearly indicates that they wish their submission to remain confidential.

## **8. Timetable for implementation of rule changes**

ASX will consider all submissions it receives in response to this consultation before finalising the proposed rule amendments.

Subject to the receipt of the necessary regulatory approvals, ASX is aiming to have the amended rules in force on, or as soon as practicable after, 1 July 2022, the Government's target date for the introduction of its CCIV legislation.

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**Annexure A:**

***Proposed amendments to the ASX Listing Rules to facilitate the listing of CCIVs and certain other collective investment vehicles on the ASX market***

DRAFT

**Drafting note:** to provide context and to make the proposed amendments to the body of the Listing Rules easier to follow, ASX is first presenting below its proposed changes to the interpretation provisions and definitions in chapter 19 of the Listing Rules, before setting out the balance of the changes it proposes to the ASX Listing Rules.

## Proposed amendments to Chapter 19 of the ASX Listing Rules

### Managed investment schemes

19.11B Where the \*responsible entity of a ~~managed investment scheme~~ applies to ~~have the managed investment scheme admitted~~, and the ~~managed investment scheme is admitted~~, to the \*official list:

- (a) the ~~name of the managed investment scheme will entered on the official list;~~
- (b) ~~the entry of the name of the managed investment scheme on the official list will be taken to be a reference to the responsible entity of the managed investment scheme for the time being acting in its capacity as the responsible entity of the managed investment scheme; and~~
- (c) ~~the responsible entity, in its capacity as the responsible entity of the managed investment scheme and for itself and its successors to that role, will be taken to have covenanted in favour of ASX to do all things necessary to cause the managed investment scheme to comply with the listing rules;~~

~~and, unless otherwise stated in a particular listing rule, references in the listing rules to:~~

- (d) ~~the entity are to be read as referring to the managed investment scheme;~~
- (e) ~~the entity's securities are to be read as referring to the securities issued by the responsible entity that confer an interest in the managed investment scheme;~~
- (f) ~~the entity's accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or market capitalisation are to be read as referring to the accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or market capitalisation (as the case may be) of the managed investment scheme (with the managed investment scheme being the reporting entity for the purposes of preparing accounts);~~
- (g) ~~a dividend or a return of capital are to be read as referring to an equivalent distribution by the managed investment scheme to its security holders;~~
- (h) ~~the entity's directors, chair, CEO, CFO, secretary, officers or employees are to be read as referring to the directors, chair, CEO, CFO, secretary, officers or employees of the responsible entity of the managed investment scheme; and~~
- (i) ~~the entity's audit committee or remuneration committee are to be read as referring to an audit committee or remuneration committee established by the directors of the responsible entity of the managed investment scheme.~~

~~However, this rule does not apply if the managed investment scheme is a foreign passport entity (rule 19.11D applies instead).~~

~~Introduced 30/09/01 Origin: rule 13.6 Amended 01/12/19, 01/07/22~~

~~Note: To avoid doubt, an NZ registered scheme that is making a recognised offer of securities is a managed investment scheme for the purposes of this rule.~~

**Deleted:** Trusts and stapled entities

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**Deleted:** trust, rather than the \*responsible entity, is regarded as the listed entity and must comply with the listing rules;

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**Deleted:** (c) unless otherwise stated, references in the listing rules to the entity's directors mean:¶

(i) if the trust is \*internally managed, the directors of the \*responsible entity; or¶

(ii) if the entity is \*externally managed, the \*responsible entity of the trust;¶

(d) .

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**Deleted:** (e) the \*responsible entity of the trust has an obligation to ensure that the trust complies with the listing rules.¶

**Drafting note:** ASX is proposing to replace the references to a "trust" in rule 19.11B with references to a "managed investment scheme" and to expand the interpretation provisions in that rule to address how the rules referring to securities, dividends, accounts, annual reports, officers, employees, an audit committee or a remuneration committee should be interpreted where the listed entity is a managed investment scheme. It is also proposing some drafting changes to align rule 19.11B with the proposed new interpretation provisions in rule 19.11C and 19.11D for CCIV sub-funds and foreign passport entities respectively.

## **CCIV sub-funds**

19.11C Where a \*CCIV corporate director applies to have a \*CCIV \*sub-fund admitted, and the \*CCIV \*sub-fund is admitted, to the \*official list:

- (a) the name of the \*CCIV \*sub-fund will be entered on the \*official list;
- (b) the entry of the name of the \*CCIV \*sub-fund on the \*official list will be taken to be a reference to the \*CCIV in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the \*CCIV \*sub-fund under Part 8B.5 of the Corporations Act; and
- (c) both the \*CCIV and the \*CCIV corporate director will be taken to have covenanted in favour of ASX to do all things necessary to cause the \*CCIV \*sub-fund to comply with the listing rules,  
and, unless otherwise stated in a particular listing rule, references in the listing rules to:
  - (d) the entity are to be read as referring to the \*CCIV \*sub-fund;
  - (e) the entity's \*securities are to be read as referring to the \*CCIV \*sub-fund securities;
  - (f) the entity's \*accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or \*market capitalisation are to be read as referring to the \*accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or \*market capitalisation (as the case may be) of the \*CCIV \*sub-fund (with the \*CCIV \*sub-fund being the \*reporting entity for the purposes of preparing \*accounts);
  - (g) a dividend or a return of capital are to be read as referring to an equivalent distribution by the \*CCIV \*sub-fund to the holders of the \*CCIV \*sub-fund securities;
  - (h) the entity's directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees are to be read as referring to the directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees of the \*CCIV corporate director; and
  - (i) the entity's \*audit committee or \*remuneration committee are to be read as referring to an \*audit committee or \*remuneration committee established by the directors of the \*CCIV corporate director.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add new rule 19.11C to facilitate the listing of CCIV sub-funds on ASX and to explain how various terms in the rules should be understood in the case of a listed CCIV sub-fund.

## **Foreign passport entities**

19.11D Where the \*operator of a \*foreign passport entity applies to have the \*foreign passport entity admitted, and the \*foreign passport entity is admitted, to the \*official list:

- (a) the name of the \*foreign passport entity will entered on the \*official list;
- (b) the entry of the name of the \*foreign passport entity on the \*official list will be taken to be a reference to the \*operator of the \*foreign passport entity for the time being acting in its capacity as the \*operator of the \*foreign passport entity; and

(c) the \*operator, in its capacity as the \*operator of the \*foreign passport entity and for itself and its successors to that role, will be taken to have covenanted in favour of ASX to do all things necessary to cause the \*foreign passport entity to comply with the listing rules.

and, unless otherwise stated in a particular listing rule, references in the listing rules to:

- (d) the entity are to be read as referring to the \*foreign passport entity;
- (e) the entity's \*securities are to be read as referring to the \*securities issued by the \*operator that confer an interest in the \*foreign passport entity;
- (f) the entity's \*accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or \*market capitalisation are to be read as referring to the \*accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or \*market capitalisation (as the case may be) of the \*foreign passport entity (with the \*foreign passport entity being the \*reporting entity for the purposes of preparing \*accounts);
- (g) a dividend or a return of capital are to be read as referring to an equivalent distribution by the \*foreign passport entity to its \*security holders;
- (h) the entity's directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees are to be read as referring to the directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees of the \*operator of the \*foreign passport entity; and
- (i) the entity's \*audit committee or \*remuneration committee are to be read as referring to an \*audit committee or \*remuneration committee established by the directors of the \*operator of the \*foreign passport entity.

Introduced 01/07/22

Note: To avoid doubt, this rule applies regardless of whether the foreign passport entity is a regulated CIS in its own right or a sub-fund of a regulated CIS.

**Drafting note:** ASX is proposing to add new rule 19.11D to facilitate the listing of notified foreign passport funds on ASX and to explain how various terms in the rules should be understood in the case of a listed notified foreign passport fund.

## Stapled entities

19.11E, Where a \*stapled group applies to be, and is, admitted to the \*official list:

- (a) the name of each entity that is a constituent part of the \*stapled group will be entered on the \*official list;
- (b) each such entity must comply with, and ensure that each of the other entities in the stapled group as a group comply with, the listing rules;
- (c) rule 19.11B applies to each \*managed investment scheme in the \*stapled group;
- (d) rule 19.11C applies to each \*CCIV \*sub-fund in the \*stapled group;
- (e) rule 19.11D applies to each \*foreign passport entity in the \*stapled group,  
and, unless otherwise stated in a particular listing rule, references in the listing rules to:
- (f) the entity are to be read as referring to each entity in the \*stapled group;
- (g) the entity's \*securities are to be read as referring to the \*stapled securities of the \*stapled group;
- (h) the entity's \*accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or \*market capitalisation are to be read as referring to the aggregated \*accounts, annual report, assets, liabilities, equity interests, profits, losses, capital, issued capital or \*market capitalisation (as the case may be) of all of the entities in the \*stapled group (with the \*stapled group being the \*reporting entity for the purposes of preparing \*accounts);

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- (i) a dividend or a return of capital are to be read as referring to an equivalent distribution by the \*stapled group to the holders of the \*stapled securities;
- (i) the entity's directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees are to be read as referring to:
  - (i) the directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees of each \*company in the \*stapled group; and
  - (ii) the directors, \*chair, \*CEO, \*CFO, \*secretary, officers or employees of the \*governing body of each entity in the \*stapled group that is not a \*company; and
- (k) the entity's \*audit committee or \*remuneration committee are to be read as referring to an \*audit committee or \*remuneration committee established by
  - (i) the directors of each \*company in the \*stapled group; and
  - (ii) the directors of the \*governing body of each entity in the \*stapled group that is not a \*company.

Introduced 01/12/19 [Amended 01/07/22](#)

**Drafting note:** ASX is proposing to re-number rule 19.11C as rule 19.11E and to amend it to align the drafting with rules 19.11B, 19.11C and 19.11D above.

## References to Australian Stock Exchange Limited

19.11F. All references to 'Australian Stock Exchange Limited' in the listing rules, guidance notes, appendices, circulars, notices, bulletins, explanatory memoranda and other communications issued or made by ASX under the listing rules are as and from 5 December 2006 taken to be references to 'ASX Limited'.

Introduced 20/07/07 Renumbered 01/12/19 [01/07/22](#)

**Drafting note:** ASX is proposing to re-number existing rule 19.11D as rule 19.11F to reflect the insertion of new rules 19.11C and 19.11D above.

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## Definitions

19.12 The following expressions have the meanings set out below.

Introduced 01/07/96 Origin: Definitions

### Expressions

### Meanings

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associate,

save as set out below, a person (the *second person*) is an associate of another person (the *primary person*) in relation to a listed entity if, and only if, one or more of the following paragraphs applies:

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- (a) in the case of a primary person who is a natural person, the second person is an entity the primary person controls;
- (b) in the case of a primary person who is an entity, the second person is:
  - (i) an entity the primary person \*controls; or
  - (ii) an entity that \*controls the primary person; or
  - (iii) an entity that is controlled by an entity that \*controls the primary person;
- (c) the second person is a person with whom the primary person has, or proposes to enter into, a relevant agreement

for the purpose of controlling or influencing;

- (i) if the listed entity is a \*company, the composition of the listed entity's board;
- (ii) if the listed entity is not a \*company and it is \*internally-managed, the composition of the \*governing body's board;
- (iii) if the listed entity is not a \*company and it is \*externally-managed, whether a particular entity becomes or remains the \*governing body of the listed entity.

or the conduct of the listed entity's affairs;

- (d) the second person is a \*person with whom the primary person is acting, or proposing to act, in concert in relation to the listed entity's affairs.

In paragraphs (a) and (b) above, references to an "entity" without the precursor "listed" include a body corporate, partnership, unincorporated body, \*managed investment scheme, \*CCIV sub-fund, \*foreign passport entity, or \*private trust.

If the primary person is:

- (A) a \*managed investment scheme, its associates will be taken to include the \*responsible entity of the \*managed investment scheme;
- (B) a \*CCIV or \*CCIV sub-fund, its associates will be taken to include the \*CCIV corporate director;
- (C) a \*foreign passport entity, its associates will be taken to include the \*operator of the \*foreign passport entity; or
- (D) a \*private trust, its associates will be taken to include the trustee of the trust.

A \*related party of a natural person is to be taken to be an associate of the natural person unless the contrary is established.

However, a \*person is not an associate of another \*person merely because of one or more of the following:

- (a) one gives advice to the other, or acts on the other's behalf, in the proper performance of the functions attaching to a professional capacity or a business relationship;
- (b) one, a client, gives specific instructions to the other, whose ordinary business includes dealing in financial products, to acquire financial products on the client's behalf in the ordinary course of that business;
- (c) one had sent, or proposes to send, to the other an offer under a takeover bid for \*securities held by the other;
- (d) one has appointed the other, otherwise than for valuable consideration given by the other or by an associate of the other, to vote as a proxy or representative at a meeting of \*security holders, or of a class of \*security holders, of the listed entity.

Introduced 01/07/14 Amended 01/12/17, 01/12/19, 01/07/22

Notes: Section 9 of the Corporations Act defines "relevant agreement".

One way in which a related party of a natural person may seek to establish that it is not an associate of the natural person is for the natural person or related party in question to give a statutory declaration or some other form of certification to the listed entity to that effect. The listed entity should take this and any other information known to it into

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account when forming a view as to whether or not the related party is in fact an associate of the natural person.

**Drafting note:** ASX is proposing to redraft the definition of “associate” in rule 19.12 to address how the definition should apply to companies, to entities that are not companies and are internally-managed, and to entities that are not companies and are externally-managed.

...

audit committee

...

in relation to a listed entity, a committee formed:

- (a) if the entity is a \*company – by the directors of the \*company;  
or
- (b) if the entity is not a \*company – by the directors of the \*governing body of the entity.

to advise the directors on matters pertaining to the audit of the entity's \*accounts.

Introduced 01/07/22

Cross reference: See rules 19.11B(i), 19.11C(i), 19.11D(i) and 19.11E(k) for how this definition is applied to various kinds of listed entities.

**Drafting note:** ASX is proposing to add a definition of “audit committee” in rule 19.12 and to specify how it operates where the entity is not a company (as defined in rule 19.12).

Australian company,

- (a) a public company limited by shares registered under Part 2A.2 of the Corporations Act; or
- (b) any other body corporate established in Australia that ASX, in its absolute discretion, considers has an appropriate structure to be admitted to the \*official list.

Introduced 19/12/16 Amended 01/07/22

**Drafting note:** ASX is proposing to amend the definition of “Australian company” in rule 19.12 to require the company to be a public company under Part 2A.2 of the Corporations Act or any other body corporate established in Australia that ASX considers has an appropriate structure to be admitted to the official list.

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Australian entity,

an \*Australian company, a \*CCIV \*sub-fund or an \*Australian scheme.

Introduced 19/12/16 Amended 01/07/22

**Drafting note:** ASX is proposing to amend the definition of “Australian entity” in rule 19.12 to include a “sub-fund” of a “CCIV” (as defined below) and to replace the reference to an “Australian trust” with a reference to an “Australian scheme” (as defined below).

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[Australian registered scheme](#)

[a \\*managed investment scheme that is registered under Part 5C.1 of the Corporations Act.](#)

[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to include in rule 19.12 a new definition of "Australian registered scheme" and to remove all of the notes throughout the listing rules explaining the meaning of that term.

Australian [scheme](#)

- (a) [an \\*Australian registered scheme;](#)
- (b) [an \\*exempt scheme established in Australia; or](#)
- (c) [a \\*wholesale scheme established in Australia that is proposing to offer or issue \\*wholesale debt securities.](#)

Introduced 19/12/16 Amended 01/12/19 [01/07/22](#)

**Drafting note:** ASX is proposing to replace the definition of an "Australian trust" in rule 19.12 with a definition of "Australian scheme". It is also proposing to include in the new definition managed investment schemes established in Australia that ASIC has exempted from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act.

To improve and shorten the drafting of the definition of "Australian scheme", ASX is also proposing to add two new defined terms in rule 19.12 – "exempt scheme" and "wholesale scheme" (see below).

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- Deleted:** and that is not required to be a registered scheme by virtue of section 601ED(2) of the Corporations Act
- Deleted:** Note: "Registered scheme" means a managed investment scheme that is registered under section 601EB of the Corporations Act (rule 19.3 and section 9 of the Corporations Act).¶

aware

an entity becomes aware of information if, and as soon as,

- (a) [if the entity is a \\*company – an officer of the entity; or](#)
- (b) [if the entity is not a \\*company – an officer of its \\*governing body.](#)

has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as [such](#) an officer.

Introduced 01/07/96 Origin: Listing rule 3A(1) Amended 01/07/98, 30/09/01, 01/05/13, [01/07/22](#)

**Drafting note:** ASX is proposing to redraft the definition of "aware" in rule 19.12 to remove the redundant references to a "trust" and its "responsible entity" and to address how the definition should apply to companies and to entities that are not companies.

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[CCIV](#)

[an entity that is registered as a corporate collective investment vehicle under Part 8B.2 of the Corporations Act.](#)

[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a new definition of the term "CCIV" in rule 19.12. This definition is needed to facilitate the listing of CCIV sub-funds on ASX.

CCIV corporate director

in relation to a \*CCIV, the corporate director of the \*CCIV, as defined in section 1224 of the Corporations Act.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new definition of the term "CCIV corporate director" in rule 19.12. This definition is needed to facilitate the listing of CCIV sub-funds on ASX.

...

child entity,

in relation to a listed entity means:

(a) if the listed entity is a \*company, an entity that is \*controlled by, or a subsidiary of, the listed entity; and

(b) if the listed entity that is not a \*company, an entity that is \*controlled by the \*governing body of the listed entity in its capacity as the \*governing body of the listed entity.

in relation to any other entity (the subject entity) means:

(c) if the subject entity is a body corporate, an entity that is \*controlled by, or a subsidiary of, the subject entity; and

(d) if the subject entity is not a body corporate, an entity that is \*controlled by the subject entity.

References in this definition to an "entity" without the precursor "listed" include a body corporate, partnership, unincorporated body, \*managed investment scheme, \*CCIV sub-fund, \*foreign passport entity or \*private trust.

For the purposes of this definition only, if the listed entity or subject entity is a \*managed investment scheme, a \*CCIV \*sub-fund or a \*foreign passport entity, the first entity will be taken to control an entity that the \*governing body of the first entity controls in its capacity as \*governing body of the \*first entity. It will not be taken to control an entity that the \*governing body of the \*first entity controls in some other capacity.

Introduced 01/07/96 Amended 01/07/98, 13/03/00, 30/09/01, 24/10/05, 01/12/19, 01/07/22

Note: "Subsidiary" has the same meaning as in section 9 of the Corporations Act (see rule 19.3(a)).

**Drafting note:** ASX is proposing to redraft the definition of "child entity" in rule 19.12 to remove the redundant references to a "trust" and its "responsible entity" and to address how the definition should apply to companies and to entities that are not companies.

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company

an \*Australian company or a \*foreign company.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a definition of "company" to rule 19.12 as a convenient collective term to refer to Australian companies and foreign companies.

...

...

control

for the purposes of these rules, an entity (*the first entity*) controls a *another entity (the second entity)* if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies. In determining whether the first entity has this capacity:

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- (a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and
- (b) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

If the first entity is a body corporate, it will not be taken to control a second entity if it is under a legal obligation to exercise its capacity to influence decisions about the second entity's financial and operating policies for the benefit of someone other than its members.

Introduced 01/12/19 Amended 01/07/22

**Drafting note:** ASX is proposing to redraft the definition of "control" in rule 19.12 to remove the final paragraph referring to a "trust" and its "responsible entity". ASX is not proposing to replace that paragraph with an equivalent paragraph referring to a managed investment scheme and its responsible entity. On closer consideration, ASX is of the view that this paragraph was not an appropriate inclusion in the definition of "control". The paragraph is more appropriately included in the definition of "child entity" above.

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...

...

directors' declarations

a declaration:

- (a) if the entity is a \*company – by the directors of the \*company;  
or
- (b) if the entity is not a \*company – by the directors of the \*governing body of the entity.

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that is required by any law, rule or accounting standard and states either of the following:

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- (i) that the statement of financial position, statement of comprehensive income and statement of cash flows, together with the notes and other disclosures and information, comply

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with a law, rule or accounting standard and give a fair and true view of the financial position and performance of the entity: or.

- (ii) that, in the opinion of the directors, there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable.

Introduced 01/07/00 Amended 24/10/05, 01/01/12, 01/07/22

Note: The specific references in this rule to the directors of the entity's governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

**Drafting note:** ASX is proposing to redraft the definition of "directors' declaration" in rule 19.12 to remove the redundant references to a "trust" and its "responsible entity" and to address how the definition should apply to companies and to entities that are not companies.

directors' report

a report by:

- (a) if the entity is a \*company – by the directors of the \*company;  
or  
(b) if the entity is not a \*company – by the directors of the \*governing body of the entity.

that is required by any law, rule or accounting standard to include a review of operations during the period reported on.

Introduced 01/07/00 Amended 24/10/05, 01/07/22

Note: The specific references in this rule to the directors of the entity's governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

**Drafting note:** ASX is proposing to redraft the definition of "directors' report" in rule 19.12 to remove the redundant references to a "trust" and its "responsible entity" and to address how the definition should apply to companies and to entities that are not companies. ASX is also proposing to remove a note cross-referring to sections 298(1) and 306 of the Corporations Act that it no longer regards as necessary.

...

employee incentive scheme

- (a) a scheme for the issue or \*acquisition of \*equity securities in the entity by or for the benefit of:
- (i) participating employees or directors of the entity or its \*governing body;
  - (ii) participating employees or directors of a related entity of the entity or its \*governing body; or
  - (iii) the related parties of such employees or directors; or
- (b) a scheme which, in ASX's opinion, is an employee incentive scheme.

Introduced 01/07/96 Amended 30/09/01, 01/07/14, 01/12/19, 05/06/21, 01/07/22

Note: References in this definition to a director include a non-executive director.

The fact that an employee incentive scheme allows participating employees or

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directors to elect to have equity securities issued to, or held for the benefit of, a related party (such as a relative or a private company or ~~private~~ trust) does not prevent it from being an employee incentive scheme for the purposes of the ~~listing~~ rules. Nor does the fact that an employee incentive scheme may also provide for the participation of consultants and contractors, as well as employees and directors.

A scheme can be an employee incentive scheme of the purposes of the ~~listing~~ rules even if there is only one employee or director participating in the scheme.

Most non-executive director security purchase plans are employee incentive schemes for the purposes of the ~~listing~~ rules. This applies even where the plan provides for securities to be purchased on-market (and therefore at a fair market price) and a participating director is ultimately required to pay the full purchase price for the securities purchased on their behalf (for example, by periodic deduction to their director's fees).

Cross reference: Definition of "terms of the scheme".

**Drafting note:** ASX is proposing to amend the definition of "employee incentive scheme" to make allowance for the employees or directors of the governing body of a listed entity to participate in such a scheme.

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entity

(a) [in Chapter 1, when used in the context of an entity applying for admission to the \\*official list, a \\*company, \\*managed investment scheme, \\*CCIV \\*sub-fund or \\*foreign passport entity that has applied for admission to the \\*official list;](#)

(b) [in Chapter 2, when used in the context of an entity applying for quotation of \\*securities on ASX, a \\*company, \\*managed investment scheme, \\*CCIV \\*sub-fund or \\*foreign passport entity that has applied for the quotation of \\*securities on ASX;](#)

(c) [in Chapters 3 – 19, when used in the context of a listed entity, a \\*company, \\*managed investment scheme, \\*CCIV \\*sub-fund or \\*foreign passport entity that has been admitted to the \\*official list;](#)

(d) in Appendices 4C, 4D, 4E and 4F, the meaning in the Australian Accounting Standards; ~~and~~

(e) [otherwise, any legal, administrative or fiduciary arrangement, organisational structure or other party \(including a \\*person\) having the capacity to deploy scarce resources in order to achieve objectives, including \(without limitation\) a body corporate, \\*managed investment scheme, \\*CCIV \\*sub-fund, \\*foreign passport entity or \\*private trust.](#)

Introduced 01/07/96 Amended 01/07/00, 01/01/03, 17/12/10, [01/07/22](#)

**Drafting note:** ASX is proposing to amend the definition of "entity" in rule 19.12 to cater for the different types on entities that will be able to list on ASX if these proposed amendments proceed.

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[exempt scheme](#)

[a \\*managed investment scheme that ASIC has exempted from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act.](#)

[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a new definition of "exempt scheme" to help simplify the drafting of LR 1.1 condition 4(h), LR 1.8

Deleted: At 01/01/10, Australian Accounting Standard AASB 101 says that an entity is any legal, administrative or fiduciary arrangement, organisational structure or other party (including a person) having the capacity to deploy scarce resources in order to achieve objectives.

condition 2(h) and LR 1.11 condition 1(e).

...  
externally managed

...  
an ~~entity~~ is ~~\*externally managed~~ if:

- (a) ~~it is a \*managed investment scheme, \*CCIV \*sub-fund or \*foreign passport entity and it is not internally-managed;~~ or
- (b) ~~it has been advised by ASX that it is an \*externally-managed entity for the purposes of the listing rules.~~

Introduced 01/12/19 Amended 01/07/22

Note: To avoid doubt, the reference in paragraph (a) of this definition to a managed investment scheme includes an NZ registered scheme that is making a recognised offer of securities.

**Drafting note:** ASX is proposing to amend the definition of “externally-managed” in rule 19.12 to remove the redundant references to a “trust” and to address how it applies to a managed investment scheme, CCIV sub-fund or foreign passport entity. See also the changes to the definition of “internally-managed” below.

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foreign company

- (a) ~~a body corporate established outside Australia that is a public company limited by shares (or its equivalent) under the law where it is established; or~~
- (b) ~~any other body corporate established outside Australia that ASX, in its absolute discretion, considers has an appropriate structure to be admitted to the \*official list.~~

Introduced 19/12/16 Amended 01/07/22

Note: To avoid doubt, an NZ company (as defined below) is a foreign company for the purposes of the listing rules.

**Drafting note:** ASX is proposing to amend the definition of “foreign company” to align it with the proposed new definition of “Australian company” above.

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- Deleted: a body corporate that is not formed or established in Australia.¶

...  
foreign entity

...  
a ~~\*foreign company,~~ ~~\*foreign scheme or \*foreign passport entity.~~

Introduced 19/12/16 Amended 01/07/22

**Drafting note:** ASX is proposing to amend the definition of “foreign entity” in rule 19.12 to replace the reference to a “foreign trust” with a reference to a “foreign scheme,” and to add a reference to foreign passport entities.

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foreign passport entity

...  
an entity that is a notified foreign passport fund under Part 8A.4 of the Corporations Act.

Introduced 01/07/22

Note: To avoid doubt, a foreign passport entity may be a regulated CIS in its own right

or a sub-fund of a regulated CIS.

**Drafting note:** ASX is proposing to add a definition of “foreign passport entity” in rule 19.12 (meaning an entity that is a “notified foreign passport fund” under Part 8A.4 of the Corporations Act). This definition is needed to facilitate the listing of those entities on ASX.

foreign scheme,

- (a) an \*NZ registered scheme;
- (b) an \*exempt scheme established outside Australia; or
- (c) a \*wholesale scheme established outside Australia that is proposing to offer or issue \*wholesale debt securities, that in each case is not also an \*Australian registered scheme.

↓ Introduced 19/12/16 Amended 01/12/19, 01/07/22 ↓

Note: If a foreign scheme is also registered as a managed investment scheme in Australia, it ceases to be a foreign scheme for the purposes of the listing rules and becomes an Australian scheme.

**Drafting note:** ASX is proposing to replace the definition of “foreign trust” in rule 19.12 with a definition of “foreign scheme”. The definition will cover (a) an NZ registered scheme; (b) a managed investment scheme established outside Australia that ASIC has exempted from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act (defined to be an “exempt scheme”); and (c) a managed investment scheme established outside Australia that is proposing to offer or issue wholesale debt securities and that is not required to be a registered scheme in Australia by virtue of section 601ED(2) of the Corporations Act (defined to be a “wholesale scheme”).

**Deleted:** trust¶

**Deleted:** a trust or similar overseas entity that is not formed or established in Australia and that is not a registered scheme.¶

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**Deleted:** “Registered scheme” means a managed investment scheme that is registered under of the Corporations Act (rule 19.3 and section 9 of the Corporations Act)

...

governing body

...  
in relation to an entity mentioned in column 1 of the table below, the body mentioned in column 2 of the table below:

<u>entity</u>	<u>governing body</u>
<u>a *managed investment scheme that is not a *foreign passport entity</u>	<u>the *responsible entity of the *managed investment scheme</u>
<u>a *CCIV *sub-fund</u>	<u>the *CCIV corporate director</u>
<u>a *foreign passport entity</u>	<u>the *operator of the *foreign passport entity</u>

Introduced 01/07/22

Note: To avoid doubt, the reference in this table to a managed investment scheme includes an NZ registered scheme that is making a recognised offer of securities.

**Drafting note:** ASX is proposing to introduce a new definition of “governing body” in rule 19.12 to use (where appropriate) to replace references throughout the rules to the directors of the entity where the entity is governed by a body other than its own board of directors.



...

internally managed

...

an entity is internally managed if:

- (a) it is a managed investment scheme that is not a foreign passport entity and it has been structured so that the directors of the responsible entity can be appointed to or removed from office by a resolution of the holders of the ordinary securities in the managed investment scheme (even if they can be appointed or removed in other ways);
- (b) it is a CCIV sub-fund and the CCIV has been structured so that the directors of the CCIV corporate director can be appointed to or removed from office by a resolution of the holders of the ordinary securities in the CCIV sub-fund (even if they can be appointed or removed in other ways);
- (c) it is a foreign passport entity and the foreign passport entity has been structured so that the directors of the operator of the foreign passport entity can be appointed to or removed from office by a resolution of the holders of the ordinary securities in the foreign passport entity (even if they can be appointed or removed in other ways); or
- (d) it has been advised by ASX that it is an internally managed entity for the purposes of the listing rules.

and the entity has not been advised (in the case of paragraph (d) above, subsequently) by ASX that it is externally managed for the purposes of the listing rules.

Introduced 01/12/19 Amended 01/07/22

Note: To avoid doubt, the reference in paragraph (a) of this definition to a managed investment scheme includes an NZ registered scheme that is making a recognised offer of securities.

Example: In each case above, the relevant arrangements could include stapling the ordinary securities in the entity to the ordinary securities in the entity's governing body so that the holders of ordinary securities in the entity also own an equivalent number of ordinary securities in the governing body and, in that capacity, can vote on the appointment or removal of the directors of the governing body.

**Drafting note:** ASX is proposing to amend the definition of "internally-managed" in rule 19.12 to remove the redundant references to a "trust" and to address how it applies to a managed investment scheme, a CCIV sub-fund and a foreign passport entity.

...

managed investment scheme

...

the same meaning as in section 9 of the Corporations Act.

Introduced 01/07/22

Note: To avoid doubt, an NZ registered scheme that is making a recognised offer of securities is a managed investment scheme for the purposes of this definition.

**Drafting note:** ASX is proposing to include in rule 19.12 a new definition of "managed investment scheme" and to remove all of the notes through-out the listing rules explaining the meaning of that term.

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(b) the trust forms part of a stapled group and the responsible entity of the trust is also a part of the stapled group; or

(c) the trust forms part of a stapled group and the responsible entity of the trust is a wholly owned child entity of another entity that is also a part of the stapled group

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manager

in relation to an \*NZ registered scheme, has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013 (NZ).

Introduced 01/07/22

**Drafting note:** ASX is proposing to include in rule 19.12 a new definition of "manager" in relation to an NZ registered scheme.

...

...

notifiable interest

in relation to a listed entity that is:

(a) ~~an \*Australian company;~~

(i) ~~a relevant interest that a director of the \*Australian company has in \*securities of the \*Australian company or a related body corporate; and~~

Note: This limb of the definition is equivalent to section 205G(1)(a) of the Corporations Act.

(ii) ~~interests in contracts to which the director is a party or under which the director is entitled to a benefit, and that confer a right to call for or deliver shares in, debentures of, or interests in a \*managed investment scheme made available by, the \*Australian company or a related body corporate.~~

Note: This limb of the definition is equivalent to section 205G(1)(b) of the Corporations Act.

(b) ~~a \*foreign company, a relevant interest that a director of the \*foreign company has in \*securities of the \*foreign company;~~

(c) ~~a \*managed investment scheme that is not a \*foreign passport entity, a relevant interest that a director of the \*responsible entity of the \*managed investment scheme has in \*securities of the \*managed investment scheme;~~

(d) ~~a \*CCIV \*sub-fund, a relevant interest that a director of the \*CCIV corporate director has in the \*sub-fund securities of that \*sub-fund; and~~

(e) ~~a \*foreign passport entity, a relevant interest that a director of the \*operator of the \*foreign passport entity has in \*securities of the \*foreign passport entity.~~

Introduced 30/09/01 . Amended 01/07/22

Note: "Relevant interest" has the same meaning as in section 9 of the Corporations Act (see rule 19.3(a)).

**Drafting note:** ASX is proposing to expand the definition of "notifiable interest of a director" in rule 19.12 to state more clearly what director interests need to be notified to the market in relation to foreign companies, managed investment schemes, CCIV sub-funds and foreign passport entities.

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NZ company

- (a) a limited liability company registered under Part 2 of the Companies Act 1993 (NZ); or
- (b) any other body corporate established in New Zealand that ASX, in its absolute discretion, considers has an appropriate structure to be admitted to the \*official list.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a definition of "NZ company" in rule 19.12 to facilitate references to such companies in the listing rules.

NZ entity

- (a) an \*NZ company;
- (b) an \*NZ registered scheme; or
- (c) a \*foreign passport entity established in New Zealand.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a definition of "NZ entity" in rule 19.12 to facilitate references to such entities in the listing rules.

NZ registered scheme

a \*managed investment scheme registered under Part 4 Subpart 2 of the Financial Markets Conduct Act 2013 (NZ) that is not also an \*Australian registered scheme.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a definition of "NZ registered scheme" in rule 19.12 to facilitate references to such schemes in the listing rules.

...

...

operator

in relation to a \*foreign passport entity, means the entity identified as the operator of the \*foreign passport entity in the table in section 56 of the Corporations (Passport) Rules 2018.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a definition of "operator" in relation to a foreign passport entity in rule 19.12 to facilitate the listing of those entities on ASX.

ordinary securities,

- (a) in relation to a \*company, the class of shares in the \*company which are designated as "ordinary shares";
- (b) in relation to a \*managed investment scheme that is not a \*foreign passport entity, the class of interests in the \*managed investment scheme which are designated as "ordinary interests" (however described);
- (c) in relation to a \*CCIV \*sub-fund, the \*sub-fund securities which are designated as "ordinary shares"; and
- (d) in relation to a \*foreign passport entity, the class of interests in the \*foreign passport entity which are designated as "ordinary interests" (however described).

or, if an entity does not have a class of \*securities designated as ordinary shares or ordinary interests, the \*class of \*securities that ASX advises the entity are its ordinary \*securities for the purposes of the listing rules.

Amended 01/07/22

Example: The ordinary units in a managed investment scheme constituted as a unit trust are ordinary securities for the purposes of this definition.

**Drafting note:** ASX is proposing to amend the definition of "ordinary securities" in rule 19.12 to move the reference to "ordinary units" from the body of the definition into the note to the definition, and to specify how the definition applies to a managed investment scheme, a CCIV sub-fund and a foreign passport entity.

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private trust

a trust that is not a \*managed investment scheme.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a definition of the term "private trust" in rule 19.12. The term is used in the definitions of "associate", "child entity" and "control" above.

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**Drafting note:** ASX is proposing to remove the definition of "property trust". It does not currently appear to be used in the listing rules.

Deleted: property trust¶

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qualifying NZ entity,

an \*NZ entity that is listed on the main board of NZX.

Introduced 19/12/16 Amended 01/07/22

**Drafting note:** ASX is proposing to amend the definition of "qualifying NZ entity" to incorporate the proposed new definition of "NZ entity" (see above).

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...  
[recognised offer of securities](#)

...  
[the same meaning as in section 1200B of the Corporations Act.](#)  
[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a definition of “recognised offer of securities” in rule 19.12 to help shorten and simplify the drafting of the various rules that refer to such offers.

...  
[registered as a foreign company carrying on business in Australia](#)

...  
[registered under Part 5B.2 Division 2 of the Corporations Act.](#)  
[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a definition of “registered as a foreign company carrying on business in Australia” in rule 19.12 to help shorten and simplify the drafting of the various rules that refer to that requirement.

[regulated CIS](#)

[in relation to a \\*foreign passport entity, the same meaning as in sections 55 and 56 of the Corporations \(Passport\) Rules 2018.](#)  
[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a definition of “regulated CIS” in rule 19.12. This term is used in the note to rule 19.11D (referring to foreign passport entities that are a sub-fund of a regulated CIS rather than a regulated CIS in their own right) and also in the note to the definition of “foreign passport entity” in rule 19.12.

related party,

[for the purposes of these rules, means:](#)

- (a) in relation to a [listed entity that is a \\*company](#):
  - (i) an entity that controls the [listed entity](#);
  - (ii) if the [listed entity](#) is controlled by an entity that is a body corporate, the [directors of](#) that entity;
  - (iii) [if the listed entity is controlled by an entity that is not a body corporate, the persons making up that entity](#);
  - (iv) [the directors of the listed entity](#);
  - (v) spouses and de facto spouses of anyone referred to in (ii) ~~–~~ (iv) above;
  - (vi) parents and children of anyone referred to in (ii) ~~–~~ (v) above;
  - (vii) an entity controlled by anyone referred to in (i) – (vi) above unless it is also controlled by the [listed entity](#);
  - (viii) anyone who has fallen within (i) – (vii) above within the past 6 months;
  - (ix) anyone who believes or has reasonable grounds to believe that they are likely to fall within (i) ~~–~~ (vii) at

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- any time in the future; and
- (x) anyone acting in concert with someone referred to in (i) – (ix) above in relation to the matters referred to in the relevant rule;
- (b) in relation to a listed entity that is not a \*company and that is internally managed:
- (i) an entity that controls the listed entity;
- (ii) if the listed entity is controlled by an entity that is a body corporate, the directors of that entity;
- (iii) if the listed entity is controlled by an entity that is not a body corporate, the persons making up that entity;
- (iv) the directors of the \*governing body of the listed entity;
- (v) spouses and de facto spouses of anyone referred to in (ii) – (iv) above;
- (vi) parents and children of anyone referred to in (ii) – (v) above;
- (vii) an entity controlled by anyone referred to in (i) – (vi) above unless it is also controlled by the \*governing body of the listed entity, in its capacity as \*governing body of the listed entity;
- (viii) anyone who has fallen within (i) – (vii) above within the past 6 months;
- (ix) anyone who believes or has reasonable grounds to believe that they are likely to fall within (i) – (vii) at any time in the future; and
- (x) anyone acting in concert with someone referred to in (i) – (ix) above in relation to the matters referred to in the relevant rule; and
- (c) in relation to a listed entity that is not a \*company and that is externally managed:
- (i) the \*governing body of the listed entity;
- (ii) an entity that controls the \*governing body of the listed entity;
- (iii) if the \*governing body of the listed entity is controlled by an entity that is a body corporate, the directors of that entity;
- (iv) if the \*governing body of the listed entity is controlled by an entity that is not a body corporate, the \*persons making up that entity;
- (v) the directors of the \*governing body of the listed entity;
- (vi) spouses and de facto spouses of anyone referred to in (iii) – (v) above;
- (vii) parents and children of anyone referred to in (iii) – (v) above;
- (viii) an entity controlled by the \*governing body of the listed entity, other than in its capacity as \*governing body of the listed entity;
- (ix) an entity controlled by anyone referred to in (ii) – (viii)

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above unless it is also controlled by the <sup>+</sup>[governing body of the listed entity](#), in its capacity as <sup>+</sup>[governing body of the listed entity](#);

(x) anyone who has fallen within (ii) – (ix) above within the past 6 months;

(xi) anyone who believes or has reasonable grounds to believe that they are likely to fall within (ii) – (ix) at any time in the future; and

(xii) anyone acting in concert with someone referred to in (i) – (xi) above [in relation to the matters referred to in the relevant rule](#); and

(d) in relation to a [natural](#) <sup>+</sup>person:

(i) the <sup>+</sup>person's spouse or de facto spouse;

(ii) a parent or child of the <sup>+</sup>person or of a spouse or de facto spouse of the <sup>+</sup>person;

(iii) an entity controlled by the <sup>+</sup>person or anyone referred to in (i) or (ii);

(iv) anyone who has fallen within (i) – (iii) above within the past 6 months;

(v) anyone who believes or has reasonable grounds to believe that they are likely to fall within (i) – (iii) above at any time in the future; and

(vi) a <sup>+</sup>person [acting](#) in concert with the <sup>+</sup>person or anyone referred to in (i) – (v) above [in relation to the matters referred to in the relevant rule](#).

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Introduced 01/07/96 Amended 01/07/98, 13/03/00, 30/09/01, 24/10/05, 01/12/19, 01/07/22

[Note: Paragraph \(d\) is relevant to determining who are the associates of a person in relation to a listed entity. In this regard, the definition of "associate" in rule 19.12 provides that a related party of a natural person is to be taken to be an associate of the natural person unless the contrary is established.](#)

**Drafting note:** ASX is proposing to replace the references to a "trust" and its "responsible entity" in the definition of "related party" in rule 19.12 with references to a "listed entity that is not a company" and its "governing body" respectively.

It is also proposing to add a note to paragraph (d) of that definition highlighting the significance of that paragraph when it comes to determining who are a person's associates in relation to a listed entity.

relevant percentage interest

in relation to a \*person and an entity, the percentage calculated in accordance with the following formula:

$$V/T \times 100$$

where:

V = the number of votes attached to the \*voting securities in the entity in which the \*person and their \*associates (as defined in rule 19.12) have, or but for sections 609(6) or (7) of the Corporations Act would have, a relevant interest; and

T = the total number of votes attached to all of the \*voting securities in the entity.

Introduced 01/07/22

**Drafting note:** ASX is proposing to include in rule 19.12 a new definition of “relevant percentage interest” to help simplify the drafting of the terms “substantial (10%+) holder” and “substantial (30%+) holder” (see below). The definition uses the term “voting securities”, which ASX is also proposing to define in rule 19.12 (see below).

remuneration committee

a committee formed;

(a) if the entity is a \*company – by the directors of the \*company;  
or

(b) if the entity is not a \*company – by the directors of the \*governing body of the entity.

to advise the directors on matters pertaining to the remuneration of the entity’s \*key management personnel.

Introduced 01/07/11 Amended 01/07/22

Cross reference: See rules 19.11B(i), 19.11C(i), 19.11D(i) and 19.11E(k) for how this definition is applied to various kinds of listed entities.

**Drafting note:** ASX is proposing to update the definition of “remuneration committee” in rule 19.12 to specify how it operates where the entity is not a company (as defined in rule 19.12).

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...  
reporting entity

...  
the same meaning as in Statement of Accounting Concepts SAC 1 Definition of the Reporting Entity.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new definition of the term “reporting entity” in rule 19.12. The term is proposed to be used in rules 19.11B(f), 19.11C(f), 19.11D(f) and 19.11E(h) above.

...  
responsible entity,

...  
in relation to:

(a) an \*Australian registered scheme, the same meaning as in section 9 of the Corporations Act;

Deleted: ¶

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(b) ~~an \*NZ registered scheme that is not a \*foreign passport entity, the \*manager of the \*NZ registered scheme;~~

(c) ~~any other \*managed investment scheme,~~ the entity that in ASX's opinion performs a substantially equivalent role in relation to the ~~\*managed investment scheme~~ as the \*responsible entity performs in relation to an ~~\*Australian~~ registered scheme.

Introduced 19/12/16 Amended 01/12/19, [01/07/22](#)

**Drafting note:** ASX is proposing to expand the definition of "responsible entity" in rule 19.12 to cover NZ registered schemes and to carve out notified foreign passport funds that are managed investment schemes, on the basis that the listing rules will refer to the "operator" of a foreign passport entity rather than its RE (in keeping with the terminology used in the Corporation (Passport) Rules 2018).

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**Deleted:** Note: "Registered scheme" means a managed investment scheme that is registered under section 601EB of the Corporations Act (rule 19.3 and section 9 of the Corporations Act).

...

[retail CCIV](#)

~~a \*CCIV that is a retail CCIV under section 1222J of the Corporations Act.~~

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new definition of the term "retail CCIV" in rule 19.12. This new term is needed to facilitate the listing of CCIV sub-funds on ASX.

retail [debt](#) security

~~a \*debt security that is not a \*wholesale [debt](#) security.~~

Introduced 24/10/05 Amended 01/07/22

**Drafting note:** ASX is proposing to replace the defined term "retail security" with "retail debt security" so that the various references to that term throughout the listing rules are more easily understood.

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[sub-fund](#)

~~in relation to a \*CCIV, a sub-fund of the \*CCIV registered under section 1222S of the Corporations Act.~~

~~in relation to a \*foreign passport entity, the same meaning as in section 55 of the Corporations (Passport) Rules 2018.~~

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new definition of the term "sub-fund" in rule 19.12, as it applies in relation to CCIVs and to foreign passport entities. In the case of CCIV sub-funds, this new term is needed to facilitate the listing of those sub-funds on ASX. In the case of foreign passport entities, this new term is used in the note to rule 19.11D (referring to foreign passport entities that are sub-funds of a regulated CIS rather than a regulated CIS in their own right) and also in the note to the definition of "foreign passport entity" in rule 19.12.

[sub-fund securities](#)

[in relation to a +CCIV +sub-fund, the +securities issued by the +CCIV that are referable to that +sub-fund \(within the meaning of section 1231\(1\) of the Corporations Act\).](#)

[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add in rule 19.12 a new definition of the term "sub-fund securities" as it applies in relation to CCIVs. This new term is need to facilitate the listing of CCIV sub-funds on ASX.

[substantial holder,](#)

[in relation to:](#)

- [\(a\) an +Australian company or +Australian registered scheme, a +person who has a "substantial holding" in the +Australian company or +Australian registered scheme under paragraph \(a\) of the definition of that term in section 9 of the Corporations Act; and](#)
- [\(b\) in relation to any other entity, a person who has an interest in the entity's +securities equal to or above any threshold that is required to be notified to the +entity, the market or in any other public manner under a law in the place where the entity is established or under any provisions in the entity's constitution equivalent to Part 6C.1 of the Corporations Act.](#)

[Introduced 01/07/96 Amended 13/03/00, 30/09/01, 19/12/16, 01/12/19, 01/07/22](#)

**Drafting note:** ASX is proposing to re-draft the definition of the term "substantial holder" in rule 19.12 to address more fully how the definition should apply to different types of listed entities.

For listed Australian companies and Australian registered schemes, the listing rules will simply incorporate the definition of "substantial holder" in paragraph (a) of the definition of that term in section 9 of the Corporations Act. That definition underpins the current substantial holding notice regime for listed Australian companies and listed Australian registered schemes in Part 6C.1 of the Corporations Act.

For all other listed entities (Australian or foreign), the listing rules will define a substantial holder as a person who has an interest in the entity's securities equal to or above any threshold that is required to be notified to the entity, to the market or in any other public manner under a law in the place where entity is established or under any provisions in the entity's constitution equivalent to Part 6C.1 of the Corporations Act.

Using the Corporations Act definition "of substantial holder" for entities that are not subject to Part 6C.1 of the Corporations Act is not appropriate, especially for foreign entities. Foreign entities in particular are likely to be subject to different substantial holder disclosure thresholds than the 5% threshold provided for in Part 6C.1 of the Corporations Act.

The proposed new definition of "substantial holder" will marry in better with the disclosure obligations that listed entities which are not Australian companies or Australian registered schemes have in relation to substantial holding notices in rule 3.17.3.

With the new definition, the entity in question will only be required to notify ASX under rule 3.17.3 whenever it receives a notice from a substantial security holder under the applicable provisions of its local

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**Deleted:** (a) in relation to a company and a trust which is a registered scheme, a person who has a "substantial holding" in the company or trust under paragraph (a) of the definition of that term in section 9 of the Corporations Act;¶  
Note: "Registered scheme" means a managed investment scheme that is registered under section 601EB of the Corporations Act (rule 19.3 and section 9 of the Corporations Act). At 01/12/19, paragraph (a) of the definition of "substantial holder" in section 9 of the Corporations Act (as modified by ASIC Class Order 13/520) provided that a person has a substantial holding in a company or a listed registered scheme if the total votes attached to voting shares in the body, or voting interests in the scheme, in which they or their associates have a relevant interest, or would have a relevant interest but for sections 609(6) (market traded options and derivatives), 609(7) (conditional agreements) or 609(11) (restricted securities), is 5% or more of the total votes attached to the voting shares in the company or the voting interests in the scheme.¶  
(b) . in relation to a trust which is not a registered scheme or which is a +foreign trust, a person who would have a "substantial holding" in the trust under paragraph (a) of the definition of that term in section 9 of the Corporations Act if the references in that paragraph to a scheme and interests in the scheme were references to the trust and +units in the trust; and¶  
(c) in relation to a +foreign company, a person who would have a "substantial holding" in the company under paragraph (a) of the definition of "substantial holder" in section 9 of the Corporations Act if the references in that paragraph to a company and its securities were references to the +foreign company and its securities.¶

law or constitution.

...

substantial (10%+) holder

in relation to an entity, means a \*person who, together with their \*associates (as defined in rule 19.12), has a \*relevant percentage interest in the entity of 10% or more.

Introduced 01/12/19 Amended 01/07/22

**Drafting note:** ASX is proposing to shorten and simplify the drafting of the term "substantial (10%+) holder" in rule 19.12 by incorporating the new defined term "relevant percentage interest" (see above).

substantial (30%+) holder

in relation to an entity, means a \*person who, together with their \*associates (as defined in rule 19.12), has a \*relevant percentage interest in the entity of 30% or more.

Introduced 01/12/19 Amended 01/07/22

**Drafting note:** ASX is proposing to shorten and simplify the drafting of the term "substantial (30%+) holder" in rule 19.12 by incorporating the new defined term "relevant percentage interest" (see above).

...

voting security

an issued \*security that carries any voting rights over and above those prescribed for preference \*securities in rule 6.3.

Introduced 01/07/22

**Drafting note:** ASX is proposing to include in rule 19.12 a new definition of "voting security", a term used in the proposed new definition of "relevant percentage interest" above.

wholesale debt security

a \*debt security, the terms of which provide that, the security can only be held by wholesale clients, as defined in the Corporations Act.

Introduced 24/10/05 Amended 01/07/22

**Drafting note:** ASX is proposing to replace the defined term "wholesale security" with "wholesale debt security" so that the various references to that term throughout the listing rules are more easily understood and to make some minor drafting improvements to the definition of that term.

wholesale scheme

a \*managed investment scheme that is not required to be an \*Australian registered scheme by virtue of section 601ED(2) of the Corporations Act.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new definition of "wholesale scheme" to help simplify the drafting of LR 1.8

**Deleted:** (a) in relation to an \*Australian company and a trust which is a registered scheme, a person who would have a "substantial holding" in the company or scheme under paragraph (a) of the definition of that term in section 9 of the Corporations Act if the reference in that paragraph to 5% was 10%;¶  
(b) in relation to a trust which is not a registered scheme or which is a \*foreign trust, a person who would have a "substantial holding" in the trust under paragraph (a) of the definition of that term in section 9 of the Corporations Act if the references in that paragraph to a scheme and interests in the scheme were references to the trust and \*units in the trust and the reference to 5% was 10%; and¶  
(c) in relation to a \*foreign company, a person who would have a "substantial holding" in the company under paragraph (a) of the definition of "substantial holder" in section 9 of the Corporations Act if the references in that paragraph to a company and its securities were references to the \*foreign company and its securities and the reference to 5% was 10%.¶

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**Deleted:** (a) in relation to an \*Australian company and a trust which is a registered scheme, a person who would have a "substantial holding" in the company or scheme under paragraph (a) of the definition of that term in section 9 of the Corporations Act if the reference in that paragraph to 5% was 30%.¶  
(b) in relation to a trust which is not a registered scheme or which is a \*foreign trust, a person who would have a "substantial holding" in the trust under paragraph (a) of the definition of that term in section 9 of the Corporations Act if the references in that paragraph to a scheme and interests in the scheme were references to the trust and \*units in the trust and the reference to 5% was 30%; and¶  
(c) in relation to a \*foreign company, a person who would have a "substantial holding" in the company under paragraph (a) of the definition of "substantial holder" in section 9 of the Corporations Act if the references in that paragraph to a company and its securities were references to the \*foreign company and its securities and the reference to 5% was 30%.¶

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condition 8(a)(vi).

Wholesale schemes are referenced in LR 1.8 condition 2(i), and also in paragraph (c) of the definition of "Australian scheme" and paragraph (c) of the definition of "foreign scheme" in LR 19.12, to allow wholesale funds issuing wholesale debt securities to wholesale investors to be listed on the ASX wholesale debt security market (see <https://www2.asx.com.au/issuers/debt-securities/listed-debt-securities>). Listing wholesale debt securities on that market confers important withholding tax status on the securities.

Retail investors do not have access to the ASX wholesale debt securities market. Wholesale debt securities are not quoted on the ASX market and do not trade on the ASX central limit order book. Instead they trade by phone or via institutional debt trading platforms.

DRAFT

# Proposed amendments to Chapter 1 of the ASX Listing Rules

...

## ASX Listing

### Requirements for ASX Listing

1.1 For an entity to be admitted to the \*official list as an ASX Listing, the following conditions must be met to ASX's satisfaction.

Introduced 01/07/96 Amended 30/09/01, 19/12/16

...

**Condition 3** A \*prospectus or \*PDS must be issued and lodged with \*ASIC and given to ASX or, if ASX agrees, an \*information memorandum that complies with the requirements of rule 1.4 must be lodged with ASX. The \*prospectus, \*PDS or \*information memorandum must include a prominent statement that ASX takes no responsibility for the contents of the document.

Introduced 01/07/96 Origin: Listing Rule 1A(1)(f) Amended 01/09/99, 13/03/00, 11/03/02, 01/05/13, 19/12/16, 01/12/19, [01/07/22](#)

Note: [In the case of an NZ company or an NZ registered scheme making a recognised offer of securities, the prospectus or PDS lodged with ASIC will be the prospectus or PDS the entity has prepared under the Financial Markets Conduct Act 2013 and associated regulations of New Zealand.](#)

An offer information statement is not a prospectus. If the entity establishes that it has not raised capital in the past 3 months and does not expect it will need to raise capital in the next 3 months, and has the required spread of security holders, ASX may agree to the issue of an information memorandum.

**Drafting note:** ASX is proposing to amend the notes to rule 1.1 condition 3 to clarify that in the case of NZ companies and NZ registered schemes making a recognised offer of securities the prospectus or PDS lodged with ASIC will be the prospectus or PDS the entity has prepared under the Financial Markets Conduct Act 2013 and associated regulations of New Zealand.

**Condition 4** ~~The entity must be:~~

- (a) ~~an \*Australian company (other than a \*CCIV);~~
- (b) ~~an \*Australian registered scheme;~~
- (c) ~~a \*sub-fund of a \*retail CCIV;~~
- (d) ~~an \*NZ company making a \*recognised offer of securities;~~
- (e) ~~an \*NZ registered scheme making a \*recognised offer of securities;~~
- (f) ~~a \*foreign company;~~
- (g) ~~a \*foreign passport entity; or~~
- (h) ~~an \*exempt scheme.~~

Introduced 01/07/96 Origin: Listing rule 1A(8)(i) Amended 01/07/00, 24/10/05, 04/03/13, 19/12/16, [01/07/22](#)

Note: [To avoid doubt, paragraph \(f\) includes an NZ company making an offer of securities that is not a recognised offer of securities under Chapter 8 of the Corporations Act.](#)

**Condition 5** If the entity is ~~being admitted to the \*official list under:~~

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- (a) [condition 4\(e\), the \\*responsible entity of the \\*NZ registered scheme must be an \\*NZ company;](#)

[Note: The responsible entity of an NZ registered scheme that is making a recognised offer of securities and is being admitted to the official list under condition 4\(e\) does not need to register as a foreign company carrying on business in Australia in order to make that offer. However, if it has other business activities in Australia, it may need to register as a foreign company carrying on business in Australia because of those activities.](#)

[Similarly, an NZ company that is making a recognised offer of securities and is being admitted to the official list under condition 4\(d\) above does not need to register as a foreign company carrying on business in Australia in order to make that offer. However, if it has other business activities in Australia, it may need to register as a foreign company carrying on business in Australia because of those activities.](#)

- (b) [condition 4\(f\), the entity must be \\*registered as a foreign company carrying on business in Australia;](#)

- (c) [condition 4\(g\), the \\*operator of the \\*foreign passport entity must be \\*registered as a foreign company carrying on business in Australia; or](#)

- (d) [condition 4\(h\), the \\*responsible entity of the \\*exempt scheme must either be an \\*Australian company or \\*registered as a foreign company carrying on business in Australia;](#)

[and, if the entity is being admitted to the \\*official list under condition 4\(b\), \(c\), \(e\), \(g\) or \(h\), no-one must be under any obligation to redeem or buy back any \\*securities in the \\*entity or to allow a holder of \\*securities in the \\*entity to withdraw any part of their investment in the \\*entity.](#)

Introduced 01/07/96 Origin: Listing rule 2A(9), 2F(20) Amended 01/07/98, 30/09/01, 19/12/16, 01/12/19, 01/07/22

[Note: To avoid doubt, the requirement in the concluding paragraph of this condition extends, in the case of a managed investment scheme admitted under condition 4\(b\), \(e\) or \(h\), to the managed investment scheme and the responsible entity of the managed investment scheme; in the case of a CCIV sub-fund admitted under condition 4\(c\), to the CCIV and the CCIV corporate director; and in the case of a foreign passport entity admitted under condition 4\(g\), to the foreign passport entity and its operator.](#)

[Part 5C.6 of the Corporations Act deals with members' rights to withdraw from an Australian registered scheme.](#)

[The listing rules allow on-market buy-backs by entities that are not Australian companies on conditions comparable to buy-backs by Australian companies \(see rule 7.36\).](#)

**Drafting note:** ASX is proposing to restructure and re-draft rule 1.1 conditions 4 and 5 to make them simpler and easier to follow.

Condition 4 will list the types of entities that may be admitted to the official list as an ASX Listing. That list will be expanded to include an NZ company or registered scheme making a recognised offer of securities (within the meaning of section 1200B of the Corporations Act), a sub-fund of a retail CCIV, and a foreign passport entity.

Condition 5 will specify any requirements that an applicant seeking an ASX Listing must meet in terms of registering as a foreign company carrying on business in Australia under Part 5B.2 Division 2 of the Corporations Act. In the case of managed investment schemes, CCIV sub-funds and foreign passport entities, condition 5 will also continue the existing requirement in rule 1.1 condition 5(c) that no-one must be under any obligation to redeem or buy back any of the entity's securities or to allow a holder of the entity's securities to withdraw any part of their investment in the entity.

These changes recognise that a registered managed investment scheme in New Zealand with an NZ company as its manager making a "recognised offer" of securities in Australia (within the meaning of section 1200B of the Corporations Act) does not need to be a registered scheme in Australia or have an ASIC exemption from that requirement. This is a result of the trans-Tasman mutual recognition scheme embodied in Chapter 8 of the Corporations Act and related regulations (see ASIC Regulatory Guide 190 *Offering financial products in New Zealand and Australia under mutual recognition*).

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These changes also recognise that a notified foreign passport fund does not need to be a registered scheme in Australia or have an ASIC exemption from that requirement by virtue of the Asia Region Funds Passport Scheme embodied in Chapter 8A of the Corporations Act and related regulations (see ASIC Regulatory Guide 138 *Foreign passport funds*).

Condition 17

An entity which will be included in the \*S & P All Ordinaries Index on admission to the \*official list must:

- (a) if it is a \*company, have an \*audit committee appointed by the directors of the \*company; or
- (b) if it is not a \*company, have an \*audit committee appointed by the directors of the \*governing body of the entity.

If the entity will be included in the \*S & P / ASX 300 Index on admission to the \*official list, the \*audit committee must also comply with the recommendations of the \*ASX Corporate Governance Council regarding the composition and operation of the \*audit committee.

Introduced 01/01/03 Amended 03/05/04, 11/01/10, 01/07/14, 19/12/16, 01/07/22

Cross reference: Rules 19.11B(i), 19.11C(i), 19.11D(i) and 19.11E(k). The notes to rule 12.7 have further guidance on the requirements of this condition.

**Drafting note:** ASX is proposing to amend rule 1.1 condition 17 to specify how it operates where the entity is not a company (as defined in rule 19.12). ASX is also proposing to remove the note to rule 1.1 condition 17 and to expand the cross-reference to rule 12.7. This will avoid the need to repeat in rule 1.1 condition 17 the guidance on audit committees in the notes to rule 12.7.

Condition 18

An entity which will be included in the \*S & P / ASX 300 Index on admission to the \*official list must:

- (a) if it is a \*company, have a \*remuneration committee appointed by the board of directors of the \*company which is comprised solely of non-executive directors of that board; or
- (b) if it is not a \*company and it is internally-managed, have a \*remuneration committee appointed by the board of directors of the \*governing body of the entity which is comprised solely of non-executive directors of that board.

This condition does not apply to an entity that is externally-managed.

Introduced 01/07/11 Amended 19/12/16, 01/07/22

Cross reference: Rules 19.11B(i), 19.11C(i), 19.11D(i) and 19.11E(k). The notes to rule 12.8 have further guidance on the requirements of this condition.

**Drafting note:** ASX is proposing to amend rule 1.1 condition 18 to specify how it operates where the entity is not a company (as defined in rule 19.12) and to make it clear that it does not apply to externally-managed entities. These changes reflect the fact that for an externally-managed entity, the remuneration of the officers and staff employed by the external manager is properly a matter for the external manager rather than the security holders in the entity. That is the reason, for instance, why externally managed listed entities are excluded from the recommendation to have a remuneration committee in the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations* (recommendation 8.1).

ASX is also proposing to remove the notes to rule 1.1 condition 18 and to expand the cross-reference to rule 12.8. This will avoid the need to repeat in rule 1.1 condition 18 the guidance on remuneration committees in the notes to rule 12.8.

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Deleted: Note: If the entity is a trust its remuneration committee may also be the responsible entity's remuneration committee.¶  
Where an entity is part of a corporate group, that has one or more related bodies corporate in the S&P/ASX 300 Index, the board of that entity may utilise a remuneration committee of a related body corporate in the S & P / ASX 300 Index in order to satisfy the requirements of Condition 16.¶

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Condition 20

The entity must satisfy ASX that:

- (a) if it is a \*company:
  - (i) each of its directors or proposed directors;
  - (ii) its \*CEO or proposed \*CEO; and
  - (iii) its \*CFO or proposed \*CFO; or
- (b) if it is not a \*company:
  - (i) each director or proposed director of its \*governing body;
  - (ii) the \*CEO or proposed \*CEO of its \*governing body; and
  - (iii) the \*CFO or proposed \*CFO of its \*governing body.

at the date the entity is admitted to the \*official list is of good fame and character.

Introduced 01/01/12 Amended 19/12/16, 01/12/19, 01/07/22

Note: The references in this rule to a "proposed director", "proposed CEO" or "proposed CFO" include any person named in the entity's listing prospectus, PDS or information memorandum as someone proposed to be appointed to a role described in (a) or (b) above (as applicable) after the entity has been admitted to the official list.

The specific references in this rule to the individual officers who must meet the good fame and character requirement override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors, CEO or CFO of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

Guidance Note 1 Applying for Admission – ASX Listings has guidance on how an entity can satisfy ASX of these matters.

**Drafting note:** ASX is proposing to amend its good fame and character requirements in rule 1.1 condition 20 to remove the references in that condition to a "trust" and to specify who is required to meet those requirements where the entity applying for admission to the official list is not a company. It is also proposing to add a note highlighting that the specific references in this condition to the individual officers who must meet the good fame and character requirement override the general rules in rules 19.11B – 19.11D on how to interpret references to an entity's directors, CEO or CFO in the listing rules where the entity is a managed investment scheme, a CCIV sub-fund or a foreign passport entity.

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- Deleted: • if the entity is a trust:¶
- Deleted: • each director or proposed director of the \*responsible entity of the trust:¶
- Deleted: • the \*CEO or proposed \*CEO of the \*responsible entity of the trust; and¶
- Deleted: • the \*CFO or proposed \*CFO of the \*responsible entity of the trust:¶
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1.2.6 If its \*prospectus, \*PDS or \*information memorandum does not contain a statement confirming that:

- (a) if the entity is a \*company, the directors of the entity have, or
- (b) if the entity is not a \*company, the \*governing body of the entity has,

made enquiries and nothing has come to their or its attention to suggest that the entity is not continuing to earn \*profit from continuing operations up to the date of the \*prospectus, \*PDS or \*information memorandum, the entity must give one to ASX signed:

- (c) if the entity is a \*company, by all of its directors; or
- (d) if the entity is not a \*company, by its \*governing body.

Introduced 30/09/01 Origin: Listing rule 1.2.5 Amended 01/12/19, 01/07/22

**Drafting note:** ASX is proposing to amend rule 1.2.6 to remove the parenthetical references to "trusts" and to specify who has to sign the statement referred to in that rule where the entity applying for admission to the official list is something other than a company (as defined in rule 19.12).

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1.4 If ASX agrees pursuant to rule 1.1 condition 3 that an entity may provide an \*information memorandum in lieu of a \*prospectus or \*PDS, the \*information memorandum must satisfy the following requirements:

1.4.1 If the entity is a \*company, it must contain a statement that all the information that would be required under section 710 of the Corporations Act if the \*information memorandum were a prospectus offering for subscription the same number of \*securities for which \*quotation will be sought is contained in the \*information memorandum;

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1.4.2 If the entity is not a \*company, it must contain a statement that all the information that would be required under section 1013C of the Corporations Act if the \*information memorandum were a \*PDS offering for subscription the same number of \*securities for which \*quotation will be sought is contained in the \*information memorandum;

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1.4.3 It must be signed:

(a) if the entity is a \*company, by every director, and proposed director, of the entity personally or by a \*person authorised in writing by the director; or

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(b) if the entity is not a \*company, by its \*governing body;

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1.4.4 It must include the date it was signed;

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1.4.5 It must include full particulars of the nature and extent of any interest now, or in the past 2 years, of:

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(a) if the entity is a \*company, every director or proposed director of the entity; or

(b) if the entity is not a \*company, every director or proposed director of its \*governing body.

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in the promotion of the entity, or in the property acquired or proposed to be acquired by it and:

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(c) if the interest was, or is, as a member or partner in another entity, the nature and extent of the interest of that other entity; and

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(d) if the interest was or is as a member or partner in another entity, a statement of all amounts paid or agreed to be paid to him or her or the entity in cash, \*securities or otherwise by any \*person to induce him or her to become or to qualify him or her as, a director, or for services rendered by him or her or by the entity in connection with the promotion or formation of the listed entity;

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1.4.6 It must include full particulars of the nature and extent of any interest of every expert in the promotion of the entity, or in the property acquired or proposed to be acquired by it and:

(a) If the interest was, or is, as a member or partner in another entity, the nature and extent of the interest of that other entity; and

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(b) If the interest was or is as a member or partner in another entity, a statement of all amounts paid or agreed to be paid to him or her or the entity in cash, \*securities or otherwise by any \*person to induce him or her to become or to qualify him or her as, a director, or for services rendered by him or her or by the entity in connection with the promotion or formation of the listed entity;

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1.4.7 It must include statements that:

(a) ASX does not take any responsibility for the contents of the \*information memorandum;

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(b) The fact that ASX may admit the entity to its \*official list is not to be taken in any way as an indication of the merits of the entity;

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(c) If the \*information memorandum includes a statement claiming to be made by an expert or based on a statement made by an expert, a statement that the

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expert has given, and has not withdrawn, consent to the issue of the \*information memorandum with the particular statement included in its form and context; and

- (d) the entity has not raised any capital for the 3 months before the date of issue of the \*information memorandum and will not need to raise any capital for 3 months after the date of issue of the \*information memorandum; and

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- 1.4.8 It must include a statement that the entity will issue a supplementary information memorandum if the entity becomes \*aware of any of the following between the issue of the \*information memorandum and the date the entity's \*securities are \*quoted or reinstated:

- (a) A material statement in the \*information memorandum is misleading or deceptive.
- (b) There is a material omission from the \*information memorandum.
- (c) There has been a significant change affecting a matter included in the \*information memorandum.
- (d) A significant new circumstance has arisen and it would have been required to be included in the \*information memorandum.

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Introduced 01/05/13 Amended 19/12/16, [01/07/22](#)

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**Drafting note:** ASX is proposing to amend rule 1.4 to remove all references to "trusts" and to specify who has to sign an information memorandum under rule 1.4.3, and whose director interests have to be disclosed in the information memorandum under rule 1.4.5, where the entity applying for admission to the official list is not a company.

ASX is also proposing some minor drafting changes to the text of the rule, including replacing the bullet points with letters to facilitate cross-references to the various provisions within the rule.

- 1.5 If in accordance with the statement required to be included in an \*information memorandum by rule 1.4.8 an entity becomes obliged to issue a supplementary information memorandum, the supplementary information memorandum must satisfy the following requirements:

...

- 1.5.3 It must be signed,

- (a) if the entity is a \*company, by every director, and proposed director, of the entity personally or by a \*person authorised in writing by the director; or
- (b) if the entity is not a \*company, by its \*governing body; and

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- 1.5.4 It must include the date it was signed.

Introduced 01/05/13 Amended 19/12/16, [01/07/22](#)

**Drafting note:** ASX is proposing to amend rule 1.5.3 to remove the parenthetical reference to a "trust" and to specify who has to sign a supplementary information memorandum where the entity applying for admission to the official list is not a company.

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## ASX Debt Listing

### Requirements for admission as an ASX Debt Listing

- 1.8 For an entity to be admitted to the \*official list as an ASX Debt Listing, the following conditions must be met to ASX's satisfaction.

Introduced 01/07/96 Amended 30/09/01

Condition 2

The entity must be:

- (a) an \*Australian company (other than a \*CCIV);
- (b) an \*Australian registered scheme;
- (c) a \*sub-fund of a \*retail CCIV;
- (d) an \*NZ company making a \*recognised offer of securities;
- (e) an \*NZ registered scheme making a \*recognised offer of securities;
- (f) a \*foreign company;
- (g) a \*foreign passport entity;
- (h) an \*exempt scheme;
- (i) a \*wholesale scheme proposing to offer or issue \*wholesale debt securities;
- (j) a government borrowing authority;
- (k) a public authority; or
- (l) a \*person approved by ASX in its absolute discretion.

Introduced 01/07/96 Origin: Listing rule 1A(3)(a) Amended 01/07/00, 19/12/16, 01/07/22

Note: To avoid doubt, paragraph (l) includes an NZ company making an offer of securities that is not a recognised offer of securities under Chapter 8 of the Corporations Act.

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**Drafting note:** ASX is proposing to amend condition 2 of rule 1.8 to be more specific about the types of entities that qualify for admission to the official list as an ASX Debt Listing.

The proposed amendments are similar to those proposed to rule 1.1 condition 4 above (with the necessary changes).

Condition 2A If the entity is being admitted to the \*official list under:

- (a) condition 2(e), the \*responsible entity of the \*NZ registered scheme must be an \*NZ company;

Note: The responsible entity of an NZ registered scheme that is making a recognised offer of securities and is being admitted to the official list under condition 2(e) does not need to register as a foreign company carrying on business in Australia in order to make that offer. However, if it has other business activities in Australia, it may need to register as a foreign company carrying on business in Australia because of those activities.

Similarly, an NZ company that is making a recognised offer of securities and is being admitted to the official list under condition 2(d) above does not need to register as a foreign company carrying on business in Australia in order to make that offer. However, if it has other business activities in Australia, it may need to register as a foreign company carrying on business in Australia because of those activities.

- (b) condition 2(f), the entity must be \*registered as a foreign company carrying on business in Australia;
- (c) condition 2(g), the \*operator of the \*foreign passport entity must be \*registered as a foreign company carrying on business in Australia;
- (d) condition 2(h), the \*responsible entity of the \*exempt scheme must either be an \*Australian company or \*registered as a foreign company carrying on business in Australia; or
- (e) condition 2(i), the \*responsible entity of the \*wholesale scheme must either be an \*Australian company or \*registered as a foreign company carrying on business in Australia.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new rule 1.8 condition 2A. The new condition will specify any requirements that an applicant seeking an ASX Debt Listing must meet in terms of registering as a foreign company carrying on business in Australia under Part 5B.2 Division 2 of the Corporations Act.

The proposed amendments are similar to those proposed to rule 1.1 condition 5 above (with the necessary changes). They effectively replace the current requirements in rule 1.8 conditions 7 and 8, which ASX proposes to delete.

Condition 3 The entity must satisfy one of (a), (b) or (c):

(a) the entity must:

(i) have net tangible assets at the time of admission of at least \$10 million; and

(ii) give ASX its \*accounts, together with any audit report or review for the last 2 full financial years (or a shorter period if ASX agrees). If the \*accounts have not been audited or reviewed, the entity must tell ASX.

(b) all \*debt securities to be issued by the entity for which the entity will seek quotation will be unconditionally and irrevocably guaranteed for the period of quotation of the securities by an entity of the type referred to in condition 2 above, and the guarantor must:

(i) at the time of admission of the entity to the \*official list have net tangible assets of at least \$10 million;

(ii) give ASX its \*accounts, together with any audit report or review for the last 2 full financial years (or a shorter period if ASX agrees); and

(iii) provide an undertaking to provide to ASX for release to the market the documents required to enable the entity to comply with rule 4.7A.1.

If its \*accounts have not been audited or reviewed, the guarantor must tell ASX.

(c) the \*debt securities for which the entity seeks quotation are rated at least "investment grade" by any of Moody's Investor Services Inc., Standard & Poors, Inc., and Fitch, Inc. or any other credit rating agency advised to the market by ASX from time to time or any of their subsidiaries and none of those credit rating agencies has issued a rating less than "investment grade" in relation to those \*debt securities.

Note: If the issue of debt securities is a retail issue, ASX will expect the issuer to provide investors with details of not only the rating, but also some explanation of the rating and its significance in the context of other ratings. For example, this could be done by including a comparative table, with brief descriptions of each category of rating.

ASX recognises that there may need to be changes to the credit rating agencies on whose ratings it believes it can reasonably rely. Those changes may consist of either additions to or deletions from the list of credit ratings agencies advised by ASX to the market.

Introduced 01/07/96 Amended 30/09/01, 24/10/05, 19/12/16, 01/07/22

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Deleted: or, if the entity is a trustee, the trust must have net tangible assets of at least \$10 million

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**Drafting note:** ASX is proposing to delete from rule 1.8 condition 3(a) the reference to an entity being the trustee of a trust and having net tangible assets of at least \$10 million. That provision will no longer be necessary, given the proposed introduction of paragraph (b) into rule 1.8 condition 2 above allowing managed investment schemes to be listed as ASX Debt Listings and the general interpretation provisions in rule 19.11B stating that references to the assets of a listed entity that is a managed investment scheme are taken to be references to the assets of the managed investment scheme.

ASX is also proposing to amend rule 1.8 condition 3(b) to allow an entity of the type referred to in condition 2 (including an Australian registered scheme and an exempt scheme) to be the guarantor of an ASX Debt Listing provided the entity has net tangible assets of at least \$10 million.

- Condition 4 If the [entity is proposing to offer or issue](#) \*retail [debt](#) securities:
- a \*prospectus must be issued and lodged with \*ASIC and given to ASX. The \*prospectus must include a prominent statement that ASX takes no responsibility for the contents of the document; and
  - the entity's structure and the terms of the \*debt securities must be appropriate for \*retail [debt](#) securities.

Introduced 01/07/96 Amended 30/09/01, 24/10/05, 19/12/16, 01/12/19, [01/07/22](#)

**Deleted:** \*debt securities to be quoted on ASX are

**Drafting note:** ASX is proposing to amend rule 1.8 condition 4 to clarify its intended operation and to reflect the replacement of the defined term "retail securities" with the defined term "retail debt securities".

Condition 7 [\[Deleted\]](#)

Introduced 01/07/96 Origin: Listing Rules 1A(8)(i) Amended 01/07/00, 24/10/05, 04/03/13, 19/12/16 [Deleted 01/07/22](#)

**Deleted:** If the entity is a \*foreign company,

**Deleted:** it must be registered as a foreign company carrying on business in Australia under the Corporations Act.<sup>¶</sup>

Condition 8 [\[Deleted\]](#)

Introduced 19/12/16 Amended 01/12/19 [Deleted 01/07/22](#)

**Deleted:** If the entity is a trust:

**Deleted:** (a) the \*responsible entity of the trust must be the issuer of the debt securities;<sup>¶</sup>

(b) the trust must be a special purpose trust constituted solely for the purpose of issuing the class or classes of debt securities to be quoted on ASX;<sup>¶</sup>

(c) if the \*debt securities to be quoted on ASX are \*retail securities, it must be a registered scheme or have an exemption from ASIC from that requirement; and<sup>¶</sup>

(d) if the entity is a \*foreign trust, its \*responsible entity must either be an \*Australian company or registered as a foreign company carrying on business in Australia under the Corporations Act.<sup>¶</sup>

**Drafting note:** ASX is proposing to delete conditions 7 and 8 of rule 1.8 as those conditions are now largely incorporated into the new condition 2A above.

ASX is not proposing to incorporate into the new condition 2A above the existing requirement in paragraph (a) of rule 1.8 condition 8 for trusts that the responsible entity of the trust must be the issuer of the debt securities. While this will most likely be the case, ASX does not consider it necessary to prescribe this in the rules. ASX is also not proposing to incorporate into the new condition 2A above the existing requirement in paragraph (b) of rule 1.8 condition 8 that the trust be a special purpose trust constituted solely for the purpose of issuing the debt securities to be quoted on ASX. That requirement is not consistent with some of the other admission requirements in the current rule 1.8 and appears to be an historical error.

**Deleted:** Note: "Registered scheme" means a managed investment scheme that is registered under section 601EB of the Corporations Act (Listing Rule 19.3 and section 9 of the Corporations Act).<sup>¶</sup>

## Continuing obligations of an ASX Debt Listing

- 1.10 After it is admitted, an entity admitted as an ASX Debt Listing must comply with the following listing rules (and need not comply with the others).

Introduced 01/07/96 Amended 30/09/01, [01/07/22](#)

### 1.10.1 In relation to quoted \*debt securities

**Deleted:** Note: If the entity admitted as an ASX Debt Listing is a trust, ASX may specify other rules to suit the circumstances.<sup>¶</sup>

~~(a)~~ rules 2.1, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.14, 3.1, 3.1A, 3.1B, 3.10.3, 3.10.4, 3.13.2, 3.13.3, 3.15, 3.17, 3.20, 3.21, 3.22, Appendix 6A sections 1 and 2, Chapter 8, rules 15.1.2, 15.2 to 15.10, and Chapters 16, 17, 18 ~~and 19, and~~

~~(b)~~ any listing rules that ASX specifies either before or after the entity is admitted.

Introduced 01/07/96 Amended 01/07/97, 01/07/00, 30/09/01, 01/05/13, 02/11/15, 01/12/19, 01/07/22

Note: Rule 3.21 only applies to quoted debt securities that pay a dividend or other distribution.

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1.10.2 In relation to the entity as a whole:

~~(a)~~ rules 3.14, 3.16 (other than 3.16.4), 3.18, 4.7A, 4.9 ~~and 12.6;~~

~~(b)~~ where applicable, rules 12.6A, 12.6B, 12.6C and 12.14; ~~and~~

~~(c)~~ any listing rules that ASX specifies either before or after the entity is admitted.

Introduced 01/07/96 Amended 01/09/99, 01/07/00, 30/09/01, 01/07/14, 19/12/16, 01/07/22

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Deleted: , 12.6A and 12.6B and any listing rules that ASX specifies either before or after the entity is admitted.

**Drafting note:** ASX is proposing to make consequential changes to rule 1.10 and 1.10.2, and to reflect the changes proposed to rule 12.6A and 12.6B and proposed new rules 12.6C and 12.14 below.

ASX is also proposing to remove some unnecessary notes to rules 1.10.1 and 1.10.2, including the duplicative references to ASX being able to specify additional rules with which trusts admitted as an ASX Debt Listing must comply. ASX has the express power to do this under rules 1.10.1 and 1.10.2 and it is not necessary to repeat this in the notes.

Deleted: Note: If the entity admitted as an ASX Debt Listing is a trust, ASX may specify other rules to suit the circumstances.¶

## ASX Foreign Exempt Listing

### Requirements for admission as an ASX Foreign Exempt Listing

1.11 For an entity to be admitted to the \*official list as an ASX Foreign Exempt Listing, the following conditions must be met to ASX's satisfaction.

Introduced 01/07/96 Listing rule 1B(1) Amended 30/09/01

Condition 1 The entity must be:

~~(a)~~ an \*NZ company making a \*recognised offer of securities;

~~(b)~~ an \*NZ registered scheme making a \*recognised offer of securities;

~~(c)~~ a \*foreign company;

~~(d)~~ a \*foreign passport entity; or

~~(e)~~ an \*exempt scheme.

Introduced 01/07/96 Amended 01/05/13, 19/12/16, 01/12/19, 01/07/22

Note: To avoid doubt, paragraph (c) includes an NZ company making an offer of securities that is not a recognised offer of securities under Chapter 8 of the Corporations Act.

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Deleted: a +foreign entity and must have as its \*overseas home exchange a stock exchange or market which is acceptable to ASX.¶

Deleted: Origin: Listing Rule 1B(1)(b)

**Drafting note:** ASX is proposing to amend rule 1.11 condition 1 to be more specific about the types of entities that qualify for admission to the official list as an ASX Foreign Exempt Listing.

The proposed amendments are similar to those proposed to rule 1.1 condition 4 above (with the necessary changes). They effectively replace the current requirements in rule 1.11 condition 7, which ASX proposes to delete.

Condition 1A If the entity is being admitted to the \*official list under:

~~(a)~~ condition 1(b), the \*responsible entity of the \*NZ registered scheme must be an \*NZ company;

Note: The responsible entity of an NZ registered scheme that is making a recognised offer of securities and is being admitted to the official list under

[condition 1\(b\) does not need to register as a foreign company carrying on business in Australia in order to make that offer. However, if it has other business activities in Australia, it may need to register as a foreign company carrying on business in Australia because of those activities](#)

[Similarly, an NZ company that is making a recognised offer of securities and is being admitted to the official list under condition 1\(a\) above does not need to register as a foreign company carrying on business in Australia in order to make that offer. However, if it has other business activities in Australia, it may need to register as a foreign company carrying on business in Australia because of those activities.](#)

- (b) [condition 1\(c\), the entity must be \\*registered as a foreign company carrying on business in Australia;](#)
- (c) [condition 1\(d\), the \\*operator of the \\*foreign passport entity must be \\*registered as a foreign company carrying on business in Australia; or](#)
- (d) [condition 1\(e\), the \\*responsible entity of the \\*exempt scheme must either be an \\*Australian company or \\*registered as a foreign company carrying on business in Australia.](#)

[and, if the entity is being admitted to the \\*official list under condition 1\(b\), \(d\) or \(e\), no-one must be under any obligation to redeem or buy back any \\*securities in the \\*entity or to allow a holder of \\*securities in the \\*entity to withdraw any part of their investment in the \\*entity.](#)

[Introduced 01/07/22](#)

[Note: To avoid doubt, the requirement in the concluding paragraph of this condition extends, in the case of a managed investment scheme admitted under condition 1\(b\) or \(e\), to the managed investment scheme and the responsible entity of the managed investment scheme; and in the case of a foreign passport entity admitted under condition 1\(d\), to the foreign passport entity and its operator.](#)

**Drafting note:** ASX is proposing to add a new rule 1.11 condition 1A. The new condition will specify any requirements that an applicant seeking an ASX Foreign Exempt Listing must meet in terms of registering as a foreign company carrying on business in Australia under Part 5B.2 Division 2 of the Corporations Act. In the case of managed investment schemes and foreign passport entities, condition 1A will also continue the existing requirement in rule 1.11 condition 8(b) that no-one must be under any obligation to redeem or buy back any of the entity's securities or to allow a holder of the entity's securities to withdraw any part of their investment in the entity.

The proposed amendments are similar to those proposed to rule 1.1 condition 5 above (with the necessary changes). They effectively replace the current requirements in rule 1.11 condition 8, which ASX proposes to delete.

**Condition 2** The entity must [have as its \\*overseas home exchange a stock exchange or market which is acceptable to ASX and](#) be subject to the listing rules (or their equivalent) of [that](#) exchange. ASX will not waive this rule.

[Introduced 01/07/96](#) Origin: Listing Rule 1B(1), [Amended 01/07/22](#)

[Note: Guidance Note 4 Foreign Entities Listing on ASX has guidance on the overseas home exchanges that are acceptable to ASX for the purposes of this rule.](#)

**Deleted:** Note: Guidance Note 4 *Foreign Entities Listing on ASX* has guidance on the overseas home exchanges that are acceptable to ASX for the purposes of this rule.¶

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**Drafting note:** ASX is proposing to merge the requirement currently in rule 1.11 condition 1 that the entity have as its overseas home exchange a stock exchange or market which is acceptable to ASX into rule 1.11 condition 2.

**Condition 3** ASX must be satisfied that the entity [has an acceptable track record of complying](#) with the listing rules (or their equivalent) of its \*overseas home exchange.

[Introduced 01/07/96](#) Origin: Listing Rule 1B(1)(h), [Amended 01/07/22](#)

Example: One way for ASX to be satisfied of this is to take into account a statement signed by at least two directors [of the entity or of its governing body addressing the track record of](#)

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~~the entity in complying with the listing rules (or their equivalent) of the entity's overseas home exchange.~~

**Drafting note:** ASX is proposing to amend rule 1.11 condition 3 to clarify its intended operation. It is also proposing to amend the note to rule 1.11 condition 3 to cater for listed entities that are not companies.

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Condition 7

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Introduced 01/07/96 Amended 30/09/01, 19/12/16 ~~Deleted 01/07/22~~

**Deleted:** If the entity is a \*foreign company, it must be registered as a foreign company carrying on business in Australia under the Corporations Act.

Condition 8

~~[Deleted]~~

Introduced 01/07/96 Amended 30/09/01, 19/12/16 ~~Deleted 01/07/22~~

**Deleted:** If the entity is a trust:

**Drafting note:** ASX is proposing to delete conditions 7 and 8 of rule 1.11 as those conditions are now covered in the amended condition 1 and new condition 1A above.

**Deleted:** (a) if it is not a \*qualifying NZ entity, it must have an exemption from ASIC from the requirement to be a registered scheme in Australia and its \*responsible entity must be an \*Australian company or registered as a foreign company carrying on business in Australia under the Corporations Act; and¶  
(b) no-one must be under an obligation to buy-back units in the trust or to allow a \*security holder to withdraw from the trust.¶

Condition 11

If the entity is a \*qualifying NZ entity, the entity must satisfy ASX that:

~~(a) if it is an \*NZ company:~~

~~(i) each of its directors or proposed directors;~~

~~(ii) its \*CEO or proposed \*CEO; and~~

~~(iii) its \*CFO or proposed \*CFO; or~~

~~(b) if it is not an \*NZ company:~~

~~(i) each director or proposed director of its \*governing body;~~

~~(ii) the \*CEO or proposed \*CEO of its \*governing body; and~~

~~(iii) the \*CFO or proposed \*CFO of its \*governing body.~~

~~at the date the entity is admitted to the \*official list is of good fame and character.~~

Introduced 08/09/15 Amended 19/12/16, 01/12/19, ~~01/07/22~~

Note: The references in this rule to a "proposed director", "proposed CEO" or "proposed CFO" include any person named in the entity's listing prospectus, PDS or information memorandum as someone proposed to be appointed ~~to a role described in (a) or (b) above (as applicable) after the entity has been admitted to the official list.~~

~~The specific references in this rule to the individual officers who must meet the good fame and character requirement override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors, CEO or CFO of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.~~

Guidance Note 1 *Applying for Admission – ASX Listings* has guidance on how an entity can satisfy ASX of these matters.

Introduced 01/07/00 Amended 19/12/16, 01/12/19¶  
Note: In relation to paragraph (a) above, "registered scheme" means a managed investment scheme that is registered under section 601EB of the Corporations Act (rule 19.3 and section 9 of the Corporations Act). If an entity is a registered scheme in Australia, it is by definition an Australian trust and therefore not a foreign entity. Qualifying NZ entities that are trusts do not need to be a registered scheme in Australia nor have an exemption from that requirement by virtue of the trans-Tasman mutual recognition scheme embodied in Chapter 8 of the Corporations Act and related regulations. See ASIC Regulatory Guide 190 *Offering financial products in New Zealand and Australia under mutual recognition.*¶  
registered as a foreign company carrying on business in Australia under the Corporations Act.¶

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**Deleted:** • if the entity is a trust:¶  
• each director or proposed director of the \*responsible entity of the trust;¶  
• the \*CEO or proposed \*CEO of the \*responsible entity of the trust; and¶  
• the \*CFO or proposed \*CFO of the \*responsible entity of the trust.¶

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• if the entity is a trust:¶  
• each director or proposed director of the \*responsible entity of the trust;¶  
• the \*CEO or proposed \*CEO of the \*responsible entity of the trust; and¶  
• the \*CFO or proposed \*CFO of the \*responsible entity of the trust.¶  
at the date of listing on ASX is of good fame and character.¶

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**Drafting note:** ASX is proposing to amend its good fame and character requirements for qualifying NZ entities in rule 1.11 condition 11 to be consistent with the changes proposed to the equivalent requirements in rule 1.1 condition 20 above. This includes removing the references in that condition to a "trust" and to specify who is required to meet those requirements where the entity applying for admission to the official list is not a company. It is also proposing to add a note highlighting that the specific references in this condition to the individual officers who must meet the good fame and character requirement override the general rules in rules 19.11B – 19.11D on how to interpret references to an entity's directors, CEO or CFO in the rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.



**Continuing obligations of an ASX Foreign Exempt Listing**

1.15 After it is admitted, an entity admitted as an ASX Foreign Exempt Listing must comply with the following listing rules (and need not comply with the others).

~~(a) rules 2.2, 2.7, 3.17.3, 3.17.4, 4.11, 8.1, 8.2, 8.3, 8.5, 8.6, 8.7, 8.10, 8.11, 8.17, 8.21, 12.6, 15.2 to 15.6, 15.8, 15.9, and Chapters 16, 17, 18 and 19.~~

~~(b) if the entity is a \*qualifying NZ entity, rule 2.4;~~

~~(c) where applicable, rules 12.6A, 12.6B, 12.6C and 12.14; and~~

~~(d) any listing rules that ASX specifies, either before or after it is admitted.~~

Introduced 01/07/96 Origin: Listing rule 1B(4) Amended 01/07/98, 01/09/99, 01/07/00, 30/09/01, 24/10/05, 08/09/15, 19/12/16, 01/12/19, 01/07/22

Note: ASX will have regard to the information given in the application about the regulatory regime to which the entity is subject and the entity's circumstances generally when deciding if additional rules should be specified under rule 1.15(d).

Examples: If a significant proportion of an entity's management, business, operations, assets or derivation of revenue is in Australia, ASX may specify additional listing rules with a view to ensuring that the entity is treated similarly to an Australian entity.

If an entity's financial statements are prepared using accounting standards that ASX is not prepared to accept in place of Australian standards, or the disclosure regime of the overseas home exchange is not broadly similar to ASX's, ASX may specify additional rules to address those issues.

**Drafting note:** ASX is proposing to make consequential changes to the drafting of existing rule 1.15 to reflect the changes proposed to rule 12.6A and 12.6B and proposed new rules 12.6C and 12.14 below.

In addition, ASX is proposing to remove an unnecessary sentence in the note to existing rule 1.15.1C about certain rules being of a procedural nature.

**Deleted:** Introduced 01/07/96 Origin: Listing Rule 1B(4) Amended 30/09/01¶

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**Deleted:** 1.15.1A If the entity is a \*qualifying NZ entity, rule 2.4.¶

Introduced 19/12/16¶

1.15.1B If the entity is a company, rule 12.6A.¶

Introduced 19/12/16¶

1.15.1C If the entity is a trust, rule 12.6B.¶

Introduced 19/12/16¶

**Deleted:** Listing Rules 15.2 to 15.6, 15.8, 15.9, and Chapters 16, 17, 18 and 19 are more in the nature of procedural rules.¶

## Proposed amendments to Chapter 2 of the ASX Listing Rules

...

### Requirements for quotation of additional securities

2.5 For an entity's \*securities (except its \*main class) to be quoted, the following conditions must be met to ASX's satisfaction.

...

Condition 6 If the \*securities are a \*class of \*equity securities, or other \*securities with rights of \*conversion to equity, that are not already quoted, there must be at least 100,000 \*securities and 50 holders with a \*marketable parcel (excluding \*restricted securities). This condition does not apply if either of the following requirements is met.

- (a) The \*securities would be in the same \*class as the fully paid \*ordinary securities of the entity (ignoring the fact that they do not rank equally for the next dividend and ignoring any right to participate in a concurrent offer) and there are at least 1 million \*securities.
- (b) The \*securities are a \*class of partly paid \*securities, there are at least 1 million \*securities, they are paid to not less than 40% of their issue price and the uncalled amount is payable on a fixed date which is within 12 months after the \*issue date.

Introduced 01/07/96 Origin: Listing rule 2A(5)(a) Listing rule 2.5 conditions 7 and 8  
Amended 01/07/97, 04/03/13, [01/07/22](#)

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**Drafting note:** ASX is proposing to amend rule 2.5 condition 6 to remove the reference to trust distributions. This will no longer be required if ASX proceeds with its proposal to introduce the new general interpretation provision in rule 19.11B(g) above providing that where an entity is a managed investment scheme, references in the rules to a "dividend" are to be read as referring to an equivalent distribution by the scheme to its security holders.

...

### How and when quotation occurs

2.10 ASX will quote \*securities on the date it decides. ASX may quote the \*securities on any conditions it thinks appropriate.

Introduced 01/07/96 Origin: Procedures 1(d), 1(e) Amended 01/12/19, [01/07/22](#)

Note: ASX will generally publish a market circular advising of the entity's proposed quotation date. In the case of an entity seeking first quotation of securities at listing:

- (a) If ASX agrees to a conditional market in accordance with ASX Operating Rule 3330, quotation will usually be granted on a conditional and deferred settlement basis after ASX is satisfied that the entity has met all of the conditions for its admission to the official list.
- (b) Subject to paragraph (a) above, if the entity's capital raising does not include a general public offer (eg it is limited to institutional offers, broker-firm offers and/or invitation only offers), quotation will usually be granted on a normal (T+2) basis after ASX is satisfied that the entity has met all of the conditions for its admission to the official list and ASX has received confirmation from the entity before market open on the proposed quotation date that the securities to be quoted have been issued.
- (c) Subject to paragraph (a) above, if the entity's capital raising includes a general public offer, quotation will usually be granted on a normal (T+2) basis 3 business days after ASX is satisfied that the entity has met all of the conditions for its admission to the official list and ASX has received confirmation that holding statements have been sent to security holders.

In each case above, ASX expects an entity to the entity must make appropriate arrangements (including a security information centre with toll free telephone lines) to provide information to investors about their allocations and to address any other queries they may have.

In the case of an [Australian registered scheme, CCIV sub-fund or foreign passport entity](#) seeking quotation of newly issued securities, if the cooling off period under section 1019B of the Corporations Act applies, ASX will generally not grant quotation until the 19th day after the securities have been issued.

**Drafting note:** ASX is proposing to update the last paragraph of the notes to rule 2.10 to replace the references to “units” of a registered scheme with a reference to “securities” of an Australian registered scheme, CCIV sub-fund or foreign passport entity.

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## Proposed amendments to Chapter 3 of the ASX Listing Rules

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### Capital

3.10 An entity must tell ASX the following information. It must do so immediately unless otherwise specified.

3.10.1 Details of a reorganisation to be made to its capital. The notification to ASX must be in the form of or accompanied by:

- (a) if the reorganisation involves a split or consolidation of \*securities, an Appendix 3A.3;
- (b) if the reorganisation involves a cash return of capital, an Appendix 3A.4; or
- (c) if the reorganisation involves a return of capital by way of an in specie distribution of \*securities in another entity, an Appendix 3A.5.

Introduced 01/07/96 Origin: Listing rule 3A(10A) Amended 01/12/19, 05/06/21, 01/07/22

**Drafting note:** ASX is proposing to amend rule 3.10.1 to remove the parenthetical reference to "interests" in a "trust". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" and "issued capital" of the entity are to be read as referring to the capital and issued capital of the scheme.

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### Meetings

3.13 An entity must tell ASX the following information.

3.13.1 If directors may be elected at a meeting of \*security holders, the entity must tell ASX the date of the meeting and the closing date for the receipt of nominations from \*persons wishing to be considered for election as a director, at least 5 \*business days before the closing date for the receipt of such nominations. However, the failure to give such notice does not invalidate the meeting or the election of any director at the meeting.

Introduced 01/07/96 Origin: Listing rule 3A(8)(a) Amended 01/12/19, 01/07/22

Note: The entity may satisfy this obligation by giving to ASX a calendar of key dates which shows the date of the meeting and the closing date for the receipt of director nominations, as well as other key dates (such as the dates for its half yearly and annual results presentations and dividend payment dates).

**Drafting note:** ASX is proposing to make a minor amendment to rule 3.13.1 to remove the reference to an "externally managed trust". ASX would note that there is no need to replace this reference with a reference to an externally-managed managed investment scheme (or any other externally-managed entity) since, by definition, an externally-managed entity is one where security holders cannot elect directors (see the proposed amendments to the definitions of "externally-managed" and "internally-managed" in rule 19.12 above).

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3.13.3 The contents of any prepared announcement (including any prepared address by the \*chair or \*CEO) that will be delivered at a meeting of \*security holders. A copy must be given to ASX no later than the start of the meeting.

Introduced 01/07/96 Origin: Listing rule 3J(8) Amended 01/07/97, 01/12/19, 01/07/22

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[Cross reference: See rules 19.11B – 19.11D on how to interpret the references to “chair” and “CEO” in this rule where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.](#)

Note: ASX does not recognise embargoes on the release of information (see [rule 15.8](#)).

Statements must comply with [rule 5.6](#).

If other material information is released at the meeting, the entity must immediately tell ASX ([see rule 3.1](#)).

**Drafting note:** ASX is proposing to add to rule 3.13.3 a cross reference to rules 19.11B – 19.11D, which explain how the references to the “chair” and “CEO” in rule 3.13.3 should be interpreted where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

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### Chair, directors, responsible entity, auditors etc

3.16 An entity must immediately tell ASX the following information:

3.16.1 If the entity is:

(a) [a \\*company – any change in its directors, \\*chair, \\*CEO, \\*CFO or \\*secretary;](#)  
or

(b) [not a \\*company – any change in its \\*governing body or in the directors, \\*chair, \\*CEO, \\*CFO or \\*secretary of its \\*governing body](#)

Introduced 01/07/96 Origin: Listing [rule 3A\(14\)\(a\)](#) Amended 01/07/97, 24/10/05, 01/12/19, [01/07/22](#)

[Note: The specific reference in this rule to the directors, chair, CEO, CFO or secretary of the entity's governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors, chair, CEO, CFO or secretary of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.](#)

**Drafting note:** ASX is proposing to amend rule 3.16.1 to require notification of a change to the governing body of an entity that is not a company, as well as a change in the directors, chair, CEO, CFO or secretary of that body.

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3.16.2 If the entity is [\\*externally managed and it has a compliance committee, any change in members of the compliance committee](#).

Introduced 01/07/96 Amended 01/07/97, 01/07/98, 30/09/01, 01/12/19, [01/07/22](#)

**Drafting note:** Given the proposed amendments to rule 3.16.1 above, ASX is proposing to amend rule 3.16.2 to confine its operation to changes in the membership of the compliance committee of an externally managed listed entity.

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(b) . the names of the members of the first compliance committee (if any) and any change in members of the compliance committee.¶

3.16.4 If the entity is not [\\*externally managed](#), the material terms of any employment, service or consultancy agreement it or a \*child entity [has entered](#) into with:

(a) its \*CEO;

(b) any of its directors; or

(c) any other ~~person~~ person or entity who is a \*related party of its \*CEO or any of its directors,

and of any material variation to such an agreement.

Note: The entity may satisfy this obligation by giving a copy of the agreement or variation to ASX or an announcement summarising its material terms.

An entity, however, is not required to disclose under this rule:

(i) [non-executive director fees paid out of a pool of remuneration approved by security holders;](#)

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- (ii) superannuation contributions in relation to such fees;
- (iii) an increase in director fees approved by security holders;
- (iv) periodic remuneration reviews in accordance with the terms of an employment, service or consultancy agreement;
- (v) provisions entitling a \*CEO or director to reimbursement of reasonable out of pocket expenses;
- (vi) provisions requiring the entity to indemnify officers or exempt them from liability that conform with section 199A of the Corporations Act (or, if the entity is a \*foreign entity, the laws applicable in the jurisdiction where it is established);
- (vii) provisions requiring the entity to maintain directors and officers liability insurance that conform with section 199B of the Corporations Act (or, if the entity is a \*foreign entity, the laws applicable in the jurisdiction where it is established);
- (viii) provisions (commonly referred to as "access arrangements") allowing a \*CEO or director access to entity records for a period of time after they cease to be a \*CEO or director; or
- (ix) a bona fide employment, service or consultancy agreement, or any bona fide variation to such an agreement, that it or a \*child entity has entered into with a relative of its \*CEO, or of any of its directors, that is on arms' length and ordinary commercial terms.

Introduced 01/05/13 Amended 01/07/14, 19/12/16, 01/12/19, [01/07/22](#)

**Drafting note:** ASX is proposing to make a minor change to rule 3.16.4 to reflect the replacement of the defined term "externally managed", with the hyphenated term "externally-managed" (see the proposed amendments to rule 19.12 above). The current definition of that term only captures trusts. The proposed new term will capture managed investment schemes, CCIV sub-funds and foreign passport entities.

ASX is also proposing some minor drafting improvements to the text of the rule, including replacing the bullet points with letters or Roman numerals to facilitate cross-references to the various provisions within the rule.

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## Documents sent to or received from security holders

### 3.17 An entity must immediately give ASX:

#### 3.17.1 A copy of a document it sends to holders of \*securities generally or in a \*class.

Example: A company must give ASX a copy of a letter sent to shareholders. An Australian registered scheme must give ASX a copy of a document sent to holders of interests in the scheme under section 1017D of the Corporations Act so far as that document relates to the circumstances of holders of interests generally, and not to the individual circumstances of a holder.

Notes: In some cases, an entity must give ASX a draft document (eg, a notice of meeting) in advance of it being sent out to holders of securities. See chapter 15.

Where an entity sends a letter or other communication to holders of securities generally or in a class that encloses or attaches another document that has already been given to ASX (eg, a letter to security holders enclosing an annual report that the entity has already given to ASX under rule 4.7), it is sufficient compliance with this rule that the entity give to ASX a copy of the letter or other communication and state in a covering letter to ASX that the document attached to the letter or other communication has already been given to ASX and the state the date on which it was so given.

Cross reference: Chapter 14 deals with the requirements for meetings. Chapter 4 deals with accounts and related disclosure.

- Deleted: Introduced 01/07/96 Origin: Listing Rules 3E(8)(b), 3E(8)(c), 3J(1)(a) Amended 01/05/13
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#### 3.17.2 If the entity is an \*Australian company, \*Australian registered scheme or \*CCIV \*sub-fund, a copy of a document it receives about a \*substantial holding of \*securities under Part 6C.2 of the Corporations Act that reveals materially different information to the most current information (if any) it has received about that \*substantial holding under Part 6C.1 of the Corporations Act.

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3.17.3 If the entity is not an \*Australian company, \*Australian registered scheme or \*CCIV sub-fund, a copy of a document it receives about a \*substantial holding of \*securities under any other law or provisions in the entity's constitution equivalent to Part 6C.1 of the Corporations Act.

Note: A person who gives a substantial holding notice to an Australian company, Australian registered scheme or CCIV sub-fund under Part 6C.1 of the Corporations Act is required to give a copy of that notice to ASX (section 671B(1)) and therefore it is not necessary for the entity receiving the notice to give a copy of that notice to ASX.

3.17.4 If the entity is not an \*Australian company, \*Australian registered scheme or \*CCIV sub-fund, a copy of a document it receives about a \*substantial holding of \*securities under any other law or provisions in the entity's constitution equivalent to Part 6C.2 of the Corporations Act that reveals materially different information to the most current information it has received (if any) about that \*substantial holding under the law or the provisions in the entity's constitution referred to in rule 3.17.3.

The entity is not required to comply with rules 3.17.2, 3.17.3 or 3.17.4 if, to its knowledge, the \*substantial holder has lodged a copy of the relevant document with ASX.

Introduced 01/07/96, Amended 01/05/13, 14/04/14, 19/12/16, 01/07/22

Note: For the purposes of rules 3.17.2 and 3.17.4, information that:

- a substantial holding differs (upwards or downwards) from a previously disclosed substantial holding by less than 1%; or
- the list of related entities that have a substantial holding has changed because of the creation, acquisition, dissolution or disposal of related entities,

is not considered materially different.

**Drafting note:** ASX is proposing to replace the references to a "trust" in the example to rule 3.17.1 with references to an "Australian registered scheme". ASX is also proposing to amend rule 3.17.2 to refer to an "Australian company, Australian registered scheme or CCIV sub-fund" rather than an "Australian entity", and rules 3.17.3 and 3.17.4 to refer an entity that is "not an Australian company, Australian registered scheme or CCIV sub-fund" rather than a "foreign entity". These amendments reflect the changes ASX is proposing to make to the definition of "substantial holder" in rule 19.12 explained above.

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### Additional disclosure if loans are an asset

3.18 If ASX asks, an entity with loans included in its assets must tell ASX:

- (a) the amount of each loan;
- (b) the identity of the borrower, and any direct or indirect interest which
  - (i) if the entity is a \*company – a director of the entity; or
  - (ii) if the entity is not a \*company, a director of its \*governing body,
 has in the borrower;
- (c) the security held;
- (d) the interest rate;
- (e) the maturity date; and
- (f) any other information in relation to the loan that ASX asks for.

Introduced 01/07/96 Origin: Listing rule 3J(22) Amended 01/07/98, 24/10/05, 01/12/19, 01/07/22

Note: The specific reference in this rule to the directors of the entity's governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to a director of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

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Information that:  
• a substantial holding differs (upwards or downwards) from a previously disclosed substantial holding by less than 1%; or  
• the list of related entities that have a substantial holding has changed because of the creation, acquisition, dissolution or disposal of related entities,  
is not considered materially different for the purposes of this rule.

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**Drafting note:** ASX is proposing to amend rule 3.18 to remove the references to a "trust" and to specify how the rule operates in relation to entities that are not companies (as defined in rule 19.12).

## Ownership limits

3.19 If an entity's constitution with ASX's agreement, or a law (except the Corporations Act or the Foreign Acquisitions and Takeovers Act), restricts the ownership or control of \*securities or control of votes to a specified percentage, and the entity becomes \*aware that the percentage held by a class of \*persons restricted to owning or controlling that percentage has come within 5 percentage points of the restriction, or equals or exceeds it, the following rules apply.

3.19.1 If the entity becomes \*aware of any changes of more than 1 percentage point in the capital or votes held by \*persons in the class the entity must immediately tell ASX of the change. It must do so for each change it becomes \*aware of until rule 3.19.3 applies.

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3.19.2 Each time the entity tells ASX of any change, it must state what action it will take to divest the \*securities, or to remove or change the voting or other rights attaching to them, if it receives a transfer document for \*securities whose transfer would result in the restriction being exceeded.

3.19.3 If the entity becomes \*aware that the percentage of capital or votes held by the class of \*persons referred to in rule 3.19.1 has ceased to be within 5 percentage points of the restriction, or to equal or exceed it, the entity must immediately tell ASX.

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Introduced 01/07/96 Origin: Listing rule 3A(18C) Amended 30/09/01, 11/03/02, 01/07/22

Example: A law requires a company to restrict ownership by a class of persons to no more than 40% of its total ordinary capital. If the entity becomes aware that ownership of its ordinary capital has reached 35% of its total ordinary capital it must tell ASX under this rule. It must tell ASX under rule 3.19.1 if it becomes aware of changes that reach 36%, 37% of its total ordinary capital etc. It must tell ASX under rule 3.19.3 if it becomes aware of changes that take the level of restricted ownership below 35%.

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Cross reference: Listing rule 8.11.

**Drafting note:** ASX is proposing to amend rule 3.19 to remove the parenthetical references to "trust interests". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" of the entity are to be read as referring to the capital of the scheme.

## Disclosure of directors' interests

3.19A An entity must tell ASX the following.

3.19A.1 The \*notifiable interests of a relevant director (as defined in rule 3.19A.4) on the following dates.

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- On the date that the entity is admitted to the \*official list.
- On any subsequent date that a \*person is appointed as a relevant director.

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The entity must complete Appendix 3X and give it to ASX no more than 5 business days after the entity's admission or the appointment of the \*person as a relevant director.

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Introduced 30/09/01 Amended 24/10/05, 01/07/22

Note: If a relevant director has no notifiable interests at the time when the entity is required to give ASX an Appendix 3X, the entity must lodge an Appendix 3X that discloses that the relevant director has no notifiable interests.

Deleted: An entity is not required to give information to ASX under this rule that, notwithstanding that it has complied with Listing Rule 3.19B, it does not have.¶

Cross reference: Guidance Note 22 *Disclosure of Directors' Interests* and section 205G of the *Corporations Act*.

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3.19A.2A change to ~~the~~ <sup>+</sup>notifiable interest of a **relevant** director, including whether the change occurred during a <sup>\*</sup>closed period where prior written clearance was required and, if so, whether prior written clearance was provided. The entity must complete Appendix 3Y and give it to ASX no more than 5 business days after the change occurs.

Introduced 30/09/01 Amended 01/01/11, 01/12/19\_01/07/22

Note: ~~If a relevant~~ director has no **notifiable** interests at the time when the entity is required to complete an Appendix 3X under Listing ~~rule~~ 3.19A.1, the entity must lodge an Appendix 3Y ~~within 5 business days of the relevant~~ director first acquiring a **notifiable** interest.

Cross reference: Guidance Note 22 *Disclosure of Directors' Interests* ~~and section 205G of the Corporations Act.~~

Examples: The event giving rise to the requirement to give ASX an Appendix 3Y is an on market purchase or sale of shares on the ASX market or Chi-X market. The entity has ~~5~~ business days after the date the relevant trade was executed on-market (T) and not when that trade settles (T+2) to give ASX the Appendix.

The event giving rise to the requirement to give ASX an Appendix 3Y is the exercise of options. The entity has ~~5~~ business days after the date the options were exercised to give ASX the Appendix.

3.19A.3 The <sup>\*</sup>notifiable interests of a **relevant** director at the date that the **relevant** director ceases to be a **relevant** director. The entity must complete Appendix 3Z and give it to ASX no more than 5 business days after the **relevant** director ceases to be a **relevant** director.

Introduced 30/09/01 Amended 11/03/02\_01/07/22

~~Cross reference: Guidance Note 22 *Disclosure of Directors' Interests* and section 205G of the Corporations Act.~~

3.19A.4 The references in rules 3.19A.1 – 3.19A.3 and in rule 3.19B to a “relevant director” mean:

(a) ~~if the entity is a <sup>\*</sup>company – a director of the entity; or~~

(b) ~~if the entity is not a <sup>\*</sup>company – a director of its <sup>\*</sup>governing body.~~

Introduced 01/07/22

Note: ~~The specific reference in this rule to the directors of the entity’s governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.~~

**Drafting note:** ASX is proposing to amend rules 3.19A.1 – 3.19A.3 to remove the parenthetical references to the directors of the responsible entity of a trust and to introduce a concept of “relevant director”, as defined in proposed new rule 3.19A.4. The latter new rule will explain who are the relevant directors required to disclose their “notifiable interest” in a listed entity where the listed entity is not a company (as defined in rule 19.12).

ASX is also proposing to remove the statements in the notes to those rules that an entity is not obliged to disclose information under those rules that it does not receive from the relevant director under the arrangements referred to in rule 3.19B. ASX believes it is self-evident that an entity cannot disclose what it does not know. However, that should not excuse a listed entity from having appropriate and effective arrangements with the relevant directors for this information to be provided to the entity in a timely manner.

3.19B An entity must make such arrangements as are necessary with a **relevant** director to ensure that the **relevant** director discloses to the entity all the information required by the entity to give ASX completed Appendices 3X, 3Y and 3Z within the time period allowed by ~~rule~~ 3.19A. The entity must enforce the arrangements with the **relevant** director.

Introduced 30/09/01 Amended 01/07/22

Cross reference: Guidance Note 22 *Disclosure of Directors' Interests*.

**Drafting note:** ASX is proposing to amend rule 3.19B to remove the parenthetical references to the directors of a responsible entity of a trust and again to introduce a concept of “relevant director” (as defined in proposed new rule 3.19A.4).

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**Deleted:** An entity is not required to give information to ASX under this rule that a director has not given to it under the arrangements mentioned in Listing Rule 3.19B and of which it is otherwise not aware. In such a case, the director is personally obliged to give that information to ASX and may breach section 205G of the Corporations Act if they fail to do so.¶

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**Deleted:** Note: An entity is not required to give information to ASX under this rule that, notwithstanding that it has complied with Listing Rule 3.19B, it does not have.¶

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## Proposed amendments to Chapter 4 of the ASX Listing Rules

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### Explanatory note

This chapter sets out the relevant periodic disclosure requirements that an entity will be required to satisfy in relation to each quarter, half year and end of year. Periodic disclosure requirements support and supplement the continuous disclosure obligations of a listed entity under chapter 3.

Periodic disclosure is made to ASX's market announcements office. If the Corporations Act applies, and an entity lodges accounts with ASIC, all of the documents lodged with ASIC under the relevant provisions of the Corporations Act must also be given to ASX no later than the time they are lodged with ASIC and in any event no later than 2 months (75 days for a mining exploration entity or oil and gas exploration entity) after the end of the half year or three months after the end of the full year, which are the time limits which apply under listing rules.

ASX requires an annual report to be sent to holders of ordinary securities and preference securities. The annual report must contain the additional information specified in listing rule 4.10.

Entities should note ASIC Regulatory Guide 28 dealing with relief from dual lodgement of financial reports.

Note also chapter 3 (dealing with continuous disclosure) and chapter 5 (dealing with additional reporting on mining and exploration activities). In particular note that statements in the annual report must comply with rule 5.6.

Amended 17/12/10, 01/05/13, 01/12/13, [01/07/22](#)

**Drafting note:** ASX is proposing to amend the explanatory note to chapter 4 of the rules to remove the parenthetical references to the responsible entity of a trust.

### Entity to give ASX the information in Appendix 4D (Half-year report) and half-year report lodged with ASIC or foreign regulatory authority

4.2A Following the end of the half year of an entity, the entity must give ASX the following information or documents.

**Drafting note:** ASX is proposing to amend the opening paragraph of rule 4.2A to remove the parenthetical references to the responsible entity of a trust. The reference is no longer needed given the amendments proposed to rule 19.11B above.

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4.2A.3 Unless the entity is a mining exploration entity or an oil and gas exploration entity, the information set out in Appendix 4D. The information must comply with all relevant accounting standards.

Introduced 01/01/03 Origin: Listing rules 4.1, 4.2 Amended 11/01/10, 01/05/13, 01/12/13, [01/07/22](#)

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**Drafting note:** ASX is proposing to amend rule 4.2A.3 to remove the sentence referring to responsible entities giving the required information to ASX with the necessary adaptation. The reference is no longer needed given the amendments proposed to rule 19.11B above and the stipulation that the required information must comply with relevant accounting standards.

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## Entity to give ASX the information in Appendix 4E (preliminary final report)

4.3A Following the end of the financial year of an entity (except a \*mining exploration entity or an \*oil and gas exploration entity), the entity must give ASX the information set out in Appendix 4E. The information and the \*accounts upon which it is based must use the same accounting policies. The information must comply with all relevant accounting standards.

Introduced 01/01/03 Origin: Listing rule 4.3 Amended 11/01/10, 01/12/13, [01/07/22](#)

Foreign entities may provide the information in accordance with accounting standards acceptable to ASX. ASX will accept, for example, the use of International Financial Reporting Standards.

Cross reference: Listing rules 5.6 and 19.11A, Guidance Note 4 *Foreign Entities Listing on ASX*.

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**Drafting note:** ASX is proposing to amend rule 4.3A to remove the parenthetical reference to the responsible entity of a trust and the sentence referring to responsible entities giving the required information to ASX with the necessary adaptation. These references are no longer needed given the amendments proposed to rule 19.11B above and the stipulation that the required information must comply with relevant accounting standards.

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## Entity to give ASX annual documents

4.5 An entity must give ASX a copy of the following documents.

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Introduced 01/07/96 Origin: Listing rule 3C(1)(a) Amended 01/07/98, 01/09/99, 01/07/00, 30/09/01, 01/01/03, 01/05/13, [01/07/22](#)

Note: All the documents that are to be lodged with ASIC must be given to ASX as a package. Section 319 deals with the lodgement of annual financial information by disclosing entities incorporated or established in Australia. Section 601CK deals with the lodgement of financial information by registered foreign companies. It requires a balance sheet, cash flow statement and profit and loss statement to be provided to ASIC. A foreign entity is required to give ASX any other documents specifically required by ASIC to be lodged under section 601CK but is not required to give ASX the ASIC Form 405 referred to in section 601CK or any other document such as a directors' report or directors' declaration. However, an audit report is required to be given to ASX regardless of whether ASIC requires one under section 601CK. An entity may give ASX the Form 405 or any other form if it wishes if that is convenient for the entity.

If the entity has been granted an extension of time to lodge yearly financial information by ASIC, it must still give ASX the documents within three months of the end of the accounting period unless ASX also grants it a waiver from this rule.

Cross reference: Listing rules 5.6 and 17.5. See also ASIC Regulatory Guide 28 which sets out when an entity may give financial documents to ASX and be treated as having lodged them with ASIC.

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**Drafting note:** ASX is proposing to correct a small typographical error in the note to rule 4.5.

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4.10.3 Either of the following:

- a \*corporate governance statement that meets the requirements of this rule; or
- the URL of the page on its website where a \*corporate governance statement that meets the requirements of this rule is located.

The \*corporate governance statement must disclose the extent to which the entity has followed the recommendations of the \*ASX Corporate Governance Council during the reporting period. If the entity has not followed a recommendation for any part of the reporting period, its \*corporate governance statement must separately identify that recommendation and the period during which it was not followed and state its reasons for not following the recommendation and what (if any) alternative governance practices it adopted in lieu of the recommendation during that period.

The \*corporate governance statement must also:

- (a) specify the date at which it is current, which must be the entity's balance date or a later date specified by the entity; and

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- (b) state that it has been approved:
- (i) if the entity is a \*company, by the board of directors of the entity; or
  - (ii) if the entity is not a \*company, by the board of directors of its \*governing body.

Introduced 01/07/96 Origin: Listing rule 3C(3)(j) Amended 01/01/03, 01/06/10, 01/05/13, 01/07/14, 01/07/22

Note: The specific reference in this rule to the directors of the entity's governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

Under rule 4.7, if an entity's corporate governance statement is not included in its annual report, it must be given to ASX as a separate document at the same time as the annual report. In such a case, the document should be clearly identified as the entity's corporate governance statement under this rule.

A corporate governance statement may incorporate material by reference (for example, on an entity's website or in another part of its annual report) provided that material is freely available and the statement clearly indicates where interested parties can read or obtain a copy of that material.

**Drafting note:** ASX is proposing to amend rule 4.10.3 to remove the parenthetical reference to the board of the responsible entity of a trust and to specify who should approve the corporate governance statement where entity is not a company (as defined in rule 19.12).

4.10.9 The names of the 20 largest holders of each \*class of quoted \*equity securities, the number of \*equity securities each holds in that class and the percentage of the total \*equity securities in that class that each holds.

Introduced 01/07/96 Origin: Listing rules 3B(2C)(iii) and (iv), 3C(3)(e)(iv) and (v) Amended 01/07/98, 01/07/22

**Drafting note:** ASX is proposing to amend rule 4.10.9 to clarify the intent of the rule and to remove the parenthetical reference to "interests" in a "trust". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" of the entity are to be read as referring to the capital of the scheme.

4.10.10 If:

- (a) the entity is a \*company, the name of its \*secretary; or
- (b) the entity is not a \*company, the name of its \*governing body and the name of the \*secretary of its \*governing body.

Introduced 01/07/96 Origin: Listing rule 3C(3)(f)(i) Amended 01/07/98, 24/10/05, 01/07/22

**Drafting note:** ASX is proposing to amend rule 4.10.10 to remove the parenthetical reference to the responsible entity of a trust and to address how the rule operates where the entity is not a company (as defined in rule 19.12).

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# Proposed amendments to Chapter 6 of the ASX Listing Rules

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## Preference securities

### Voting rights of preference securities

6.3 The holder of a preference \*security must be entitled to a right to vote in each of the following circumstances and in no others.

6.3.1 During a period during which a dividend (or part of a dividend) in respect of the \*security is in arrears.

6.3.2 On a proposal to reduce the entity's issued capital.

6.3.2A On a resolution to approve the terms of a buy-back agreement.

6.3.3 On a proposal that affects rights attached to the \*security.

6.3.4 On a proposal to wind up the entity.

6.3.5 On a proposal for the disposal of the whole of the entity's property, business and undertaking.

6.3.6 During the winding up of the entity.

However, this rule does not apply to preference shares of a listed entity issued (in accordance with the listing rules) before 1 July 1996. This rule also does not apply to preference shares of a listed entity issued (in accordance with the listing rules in force at 30 June 1996) between 1 July and 31 December 1996. These exceptions cease to operate if the terms of the \*securities change.

Introduced 01/07/96 Origin: Listing rules 3E(29)(a) and 3K(5) Amended 01/07/97, 01/07/22

Cross reference: rules 6.8, 6.9, 6.10.

6.4 ~~Deleted~~.

Introduced 01/07/96 Deleted 01/07/22

6.4.1 ~~Deleted~~.

Introduced 13/03/00 Deleted 01/07/22

**Drafting note:** ASX is proposing to merge rules 6.3 and 6.4 into the one rule dealing with preference securities, rather than having two separate rules dealing with preference shares and preference units. Among other things, this will enable ASX to remove the redundant references in rule 6.4 to "trusts" and "units".

ASX is also proposing to delete rule 6.4.1, which carves out preference securities in registered managed investment schemes from rule 6.4 on the basis that the voting rights attached to interests in such schemes are specified in sections 253C and 253F of the Corporations Act. That carve-out was not necessary. The specific issues addressed in sections 253C and 253F are dealt with by the carve-outs in rules 6.8.1 and 6.9.2.

### Dividend or distribution rights

6.5 The holder of a preference \*security must be entitled to a dividend at a commercial rate in preference to holders of \*ordinary securities.

Introduced 01/07/96 Origin: Listing rule 3E(29)(c) Amended 01/07/22

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Deleted: Voting rights of preference securities that are not shares¶

Deleted: A preference \*security that is not a share must entitle the holder to rights to vote as set out in rule 6.3, with any necessary adaptation

Deleted: Example: A trust issuing preference units must comply with this rule.¶  
Cross reference: rules 6.8, 6.9, 6.10.¶

Deleted: This rule does not apply to \*securities of a registered managed investment scheme.

Deleted: Note: Sections 253C and 253F of the Corporations Act deal with voting rights in registered managed investment schemes.¶

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Note: The matters [to which](#) ASX may have regard in deciding if this rule has been met include the rate of return relative to the return on the entity's ordinary securities, and the return available in the money market generally.  
Cross reference: rule 6.11, dealing with the rights of partly paid securities to a proportional dividend.

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**Drafting note:** ASX is proposing to amend rule 6.5 to remove the parenthetical reference to trust distributions. This will no longer be required if ASX proceeds with its proposal to introduce the new general interpretation provision in rule 19.11B(g) above providing that where an entity is a managed investment scheme, references in the rules to a "dividend" are to be read as referring to an equivalent distribution by the scheme to its security holders.

## Return of capital

6.6 The holder of a preference \*security must be entitled to [a](#) return of capital in preference to [the](#) holders of \*ordinary securities when the [entity](#) is wound up or [terminated](#).

Introduced 01/07/96 Origin: Listing [rule 3E\(29\)\(b\)](#) [Amended 01/07/22](#)

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**Drafting note:** ASX is proposing to amend rule 6.6 to expand the reference to a company being wound up to apply to all types of entities and to remove the parenthetical reference to the "funds" of a "trust". The latter reference will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" of the entity are to be read as referring to the capital of the scheme.

6.8.1 This rule does not apply to \*securities of an [Australian](#) registered scheme.

Introduced 13/03/00 [Amended 01/07/22](#)

Note: Sections 253C and 253F of the Corporations Act deal with voting rights in [Australian](#) registered schemes.

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**Drafting note:** ASX is proposing to amend rule 6.8.1 to replace the reference to a "registered managed investment scheme" with a reference to an "Australian registered scheme" (as defined in rule 19.12).

6.9.2 This rule does not apply to \*securities of an [Australian](#) registered scheme.

Introduced 01/07/98 [Amended 01/07/22](#)

Note: Sections 253C and 253F of the Corporations Act deal with voting rights for [Australian](#) registered schemes.

Deleted: managed investment

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**Drafting note:** Again, ASX is proposing to amend rule 6.9.2 to replace the reference to a "registered managed investment scheme" with a reference to an "Australian registered scheme" (as defined in rule 19.12).

## Removing or changing voting rights [or](#) dividend rights

6.10 An entity must not remove or change a \*security holder's right to [vote](#), or receive dividends, in respect of particular \*securities except in any of the following cases.

Introduced 01/07/96 Origin: Listing [rule 3K\(3\)](#) [Amended 01/07/22](#)

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**Drafting note:** Again, ASX is proposing to amend rule 6.10 to remove the parenthetical reference to trust distributions. This will no longer be required if ASX proceeds with its proposal to introduce the new general interpretation provision in rule 19.11B(g) above providing that where an entity is a managed investment scheme, references in the rules to a "dividend" are to be read as referring to an equivalent distribution by the scheme to its security holders.

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## Dividends and issues of bonus securities

Deleted: (and distribution rights)

6.11 The holder of a partly paid \*security must not be entitled to a greater proportion of either:

- a dividend; or
- an issue of bonus \*securities,

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than the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited). In this rule, amounts paid in advance of a call are ignored when calculating the proportion. This rule does not apply to the entitlement of a holder of a partly paid \*security in a no liability company to a dividend.

Introduced 01/07/96 Origin: Listing rule 3J(12) Amended 01/07/97, 01/07/98, 01/07/22

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Note: Section 254W(4) of the Corporations Act says that dividends are payable to shareholders in a no liability company in proportion to the number of shares held by them, irrespective of the amount paid up, or credited as paid up, on the shares. However, if the shares are not ordinary shares, the constitution may provide otherwise.

The prohibition on the issue of bonus securities covers bonus issues (defined in listing rule 19.12 by reference to a pro rata issue) and an issue of bonus securities which is not pro rata.

Example: Prior to 1/7/98, an Australian company issues shares of 20 cents each, paid to 1 cent and with a further 18 cents credited, leaving 1 cent to pay. The dividend entitlement of the share is one-half of that for a fully paid share because the 18 cents that is credited is ignored in calculating the amounts paid and payable for this purpose. If the amount actually paid is 19 cents, the dividend entitlement is 19/20 of a fully paid share.

Prior to 1/7/98, an Australian company issues shares of 20 cents each, at 25 cents each. They are paid to 1 cent with a further 18 cents credited, leaving 6 cents to pay. The dividend entitlement of the share is one-seventh of that of a fully paid share because the 18 cents that is credited is ignored when calculating the amounts paid and payable for this purpose. If the amount actually paid is 19 cents, the dividend entitlement is 19/25 of a fully paid share.

A foreign company which has par value shares issues bonus shares by the application of its share premium account. The issue must be in the proportion set out in the rule.

Cross reference: rule 7.27.2.

**Drafting note:** Again, ASX is proposing to amend rule 6.11 to remove the parenthetical reference to trust distributions. This will no longer be required if ASX proceeds with its proposal to introduce the new general interpretation provision in rule 19.11B(g) above providing that where an entity is a managed investment scheme, references in the rules to a "dividend" are to be read as referring to an equivalent distribution by the scheme to its security holders.

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## Right to a lien on equity securities

6.13 An entity must not have a lien over particular \*securities, or over dividends, if it pays on them, except in any of the following cases.

Deleted: (in the case of a trust, distributions)

6.13.1 An unpaid call or instalment is due but unpaid on those \*securities.

6.13.2 If the \*securities were \*acquired under an \*employee incentive scheme, an amount is owed to the entity for \*acquiring them.

6.13.3 An amount that the entity is required by law to pay (and has paid) in respect of the \*securities of a holder or deceased former holder.

In each case, the lien extends to reasonable interest and expenses incurred because the amount is not paid.

Introduced 01/07/96 Origin: Listing rule 3J(11) Amended 01/07/22

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**Drafting note:** Again, ASX is proposing to amend rule 6.13 to remove the parenthetical reference to trust distributions. This will no longer be required if ASX proceeds with its proposal to introduce the new general interpretation provision in rule 19.11B(g) above providing that where an entity is a managed investment scheme, references in the rules to a "dividend" are to be read as referring to an equivalent distribution by the scheme to its security holders.

6.16 An option's terms must allow the rights of an option holder to be changed to comply with the listing rules applying to a reorganisation of capital at the time of the reorganisation.

Introduced 01/07/96 Origin: Listing rules 3G(1)(d), 3N(4)(f) Amended 01/07/98, 01/07/22

Deleted: (in the case of a trust, interests)

Note: Just incorporating the provisions for reorganising options in listing rule 7.22 will not satisfy this rule, as listing rule 7.22 may change between issue of the options and the reorganisation. One acceptable approach is to include an option term that says that the rights of an option holder will be changed to the extent necessary to comply with the listing rules applying to a reorganisation of capital at the time of the reorganisation.

Cross reference: rule 7.22.

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**Drafting note:** ASX is proposing to amend rule 6.16 to remove the parenthetical reference to "trust interests". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the above to the "capital" of the entity are to be read as referring to the capital of the scheme.

6.22.2 If there is a \*pro rata issue (except a \*bonus issue) to the holders of the \*underlying securities, the exercise price of an option may be reduced according to the following formula.

$$O' = O - \frac{E [P - (S + D)]}{N + 1}$$

O' = the new exercise price of the option.

O = the old exercise price of the option.

E = the number of \*underlying securities into which one option is exercisable.

Note: E is one unless the number has changed because of a bonus issue.

P = the \*volume weighted average market price per \*security of the \*underlying securities, calculated over the 5 trading days ending on the day before the ex rights date or ex entitlements date.

S = the subscription price for a \*security under the \*pro rata issue.

D = the dividend due but not yet paid on the existing \*underlying securities (except those to be issued under the \*pro rata issue).

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N = the number of \*securities with rights or entitlements that must be held to receive a right to one new \*security.

Introduced 01/07/96 Origin: Appendix 29 Amended 01/07/97, 01/07/98, 01/07/14, 01/07/22



**Drafting note:** Again, ASX is proposing to amend rule 6.22.2 to remove the parenthetical reference to trust distributions. This will no longer be required if ASX proceeds with its proposal to introduce the new general interpretation provision in rule 19.11B(g) above providing that where an entity is a managed investment scheme, references in the rules to a "dividend" are to be read as referring to an equivalent distribution by the scheme to its security holders.

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## Proposed amendments to Chapter 7 of the ASX Listing Rules

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### Exceptions to rule 7.1 and rule 7.1A

7.2 Rule 7.1 and rule 7.1A do not apply in any of the following cases.

Amended 01/08/12

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**Exception 3** An issue of \*securities to make up the shortfall on:

- a \*pro rata issue to holders of \*ordinary securities; or
- a \*pro rata issue to holders of \*ordinary securities and to holders of other \*equity securities to the extent that the terms of issue of the \*equity securities permit participation in the \*pro rata issue.

The [offer documentation for the \\*pro rata issue must state that:](#)

- [if the entity is a \\*company, the directors of the entity reserve; or](#)
- [if the entity is not a \\*company, its \\*governing body reserves,](#)

the right to issue the shortfall and what their allocation policy will be in relation to the shortfall.

The entity must make the issue to make up the shortfall not later than 3 months after the close of the offer and the issue price must not be less than the price at which the \*securities were offered under the \*pro rata issue.

Introduced 01/07/96 Origin: Listing rule 3E(6)(c)(vi) Amended 01/07/98, 24/10/05, 14/04/14, 01/12/19, [01/07/22](#)

[Note: The specific references in this rule to the entity's governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.](#)

**Drafting note:** ASX is proposing to amend rule 7.2 exception 3 to remove the parenthetical reference to the responsible entity of a trust and to specify who should reserve the right to allocate the shortfall where the entity is not a company (as defined in rule 19.12).

...

7.3 For the holders of \*ordinary securities to approve an issue or agreement to issue under rule 7.1, the notice of meeting must include each of the following.

Amended 01/08/12, [01/07/22](#)

...

7.3.4 The date or dates on or by which the entity will issue the \*securities. This must be:

- if the \*securities are being issued under, or to fund, a \*reverse takeover, no later than 6 months after the date of the meeting;
- if court approval of a reorganisation of capital is required before the issue, no later than 3 months after the date of the court approval; or
- otherwise, no later than 3 months after the date of the meeting.

Note: If the issue requires approval under chapter 10, the time limit under that chapter for issue of the securities must be complied with.

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7.3.9 A <sup>\*</sup>voting exclusion statement.

Introduced 01/07/96 Origin: Listing rule 3E(6)(e)(viii) Amended 01/07/97, 13/03/00, 30/09/01, 11/03/02, 31/03/04, 01/08/12, 04/03/13, 01/07/14, 01/12/17, 01/12/19 [01/07/22](#).

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**Drafting note:** ASX is proposing to amend rule 7.3.4 to remove the parenthetical reference to “interests” in a “trust”. This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the “capital” or “issued capital” of the entity are to be read as referring to the capital or issued capital of the scheme.

...

**No issue without approval before a meeting to appoint or remove directors or governing body**

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7.6 An entity must not issue or agree to issue any <sup>\*</sup>equity securities, without the approval of the holders of its <sup>\*</sup>ordinary securities, for 3 months after it is told in writing by a <sup>\*</sup>person or <sup>\*</sup>persons holding more than 50% of the <sup>\*</sup>ordinary securities [in the entity](#) that they intend:

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(a) [if the entity is a <sup>\\*</sup>company – to call, or request the directors of the entity to call, a general meeting of the entity’s <sup>\\*</sup>security holders to appoint or remove directors of the entity; or](#)

(b) [if the entity is not a <sup>\\*</sup>company and it is <sup>\\*</sup>externally-managed – to call, or request the entity’s <sup>\\*</sup>governing body to call, a general meeting of the entity’s <sup>\\*</sup>security holders to remove or replace the entity’s <sup>\\*</sup>governing body; or](#)

(c) [if the entity is not a <sup>\\*</sup>company and it is <sup>\\*</sup>internally-managed – to call, or request the directors of the entity’s <sup>\\*</sup>governing body to call, a general meeting of the <sup>\\*</sup>governing body’s <sup>\\*</sup>security holders to appoint or remove directors of the <sup>\\*</sup>governing body.](#)

Deleted: (or, if the entity is a trust, that they intend to call, or request the <sup>\*</sup>responsible entity of the trust to call, a general meeting to appoint or remove the <sup>\*</sup>responsible entity of the trust)

This rule does not apply to an issue or agreement to issue in any of the following cases.

Introduced 01/07/96 Origin: Listing rule 3E(9) Amended 01/07/98, 30/09/01, 01/12/19 [01/07/22](#)

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**Note:** [The specific references in this rule to the entity’s governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.](#)

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**Drafting note:** ASX is proposing to amend rule 7.6 to remove the parenthetical references to requesting the responsible entity of a trust to convene a meeting to appoint or remove the responsible entity and to address how the rule should operate where the entity is not a company (as defined in rule 19.12).

...

**Exception 7** An issue made after the <sup>\*</sup>person or <sup>\*</sup>persons tell the entity in writing that they no longer intend to [proceed with their proposal to appoint or remove directors of the entity, remove or replace the entity’s <sup>\\*</sup>governing body or appoint or remove directors of the entity’s <sup>\\*</sup>governing body \(as applicable\).](#)

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Introduced 01/12/19 [Amended 01/07/22](#)

**Note:** [The specific references in this rule to the entity’s governing body override the general rules in rules 19.11B – 19.11D on how to interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.](#)

Deleted: call, or request the (or, if the entity is a trust, the <sup>\*</sup>responsible entity of the trust) to call, a general meeting to appoint or remove directors of the entity (or, if the entity is a trust, to appoint or remove the <sup>\*</sup>responsible entity of the trust)

**Drafting note:** ASX is proposing to amend rule 7.6 exception 7 to remove the parenthetical references to requesting the responsible entity of a trust to convene a meeting to appoint or remove the responsible entity.

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## Issues under a dividend or distribution plan

7.8 An entity may only make an issue under a \*dividend or distribution plan if each of the following conditions is met.

7.8.1 The \*securities rank equally with a \*class of quoted \*securities (ignoring the fact that they do not rank equally for the next dividend and any right to participate in a concurrent offer).

Introduced: 01/07/96 Origin: Listing rule 3J(29)(a) Amended 01/07/22

**Drafting note:** ASX is proposing to amend rule 7.8.1 to remove the parenthetical references to the next distribution by a trust. The proposed general interpretation provisions in rules 19.11B – 19.11D above address how references in the rules to “dividends” should be read where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

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## Reorganisations of capital

### General rule for an orderly market

7.18 If an entity proposes to reorganise its capital in any way, it must consult ASX to ensure that an orderly market is maintained in its \*securities.

Introduced 01/07/96 Origin: Listing rule 3N(1)(b) Amended 01/07/22

Cross reference: chapter 8.

**Drafting note:** ASX is proposing to amend rule 7.18 to remove the parenthetical reference to “interests” in a “trust”. This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the “capital” or “issued capital” of the entity are to be read as referring to the capital or issued capital of the scheme.

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### Notifying ASX

7.19 An entity that has applied to a court for approval of a reorganisation of its capital must tell ASX of each of the following steps.

7.19.3 Lodgement of the court order with the regulatory authority. It must do so immediately after it is lodged with the regulatory authority. The entity must give ASX a copy of the court order at the same time.

Introduced 01/07/96 Origin: Listing rule 3N(2) Amended 01/07/98, 01/07/22

Cross reference: rule 3.10.1.

**Drafting note:** Again, ASX is proposing to amend rule 7.19 to remove the parenthetical reference to “interests” in a “trust”. This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the “capital” or “issued capital” of the entity are to be read as referring to the capital or issued capital of the scheme.

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### Reorganisation of shares and units

7.20 If an entity proposes to reorganise its capital, it must tell \*equity security holders in writing each of the following.

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### 7.20.3 The proposed treatment of any \*convertible securities on issue.

Introduced 01/07/96 Origin: Listing rule 3N(1)(a) Amended 01/07/98, 01/07/22

Note: The definition of convertible securities includes options.

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**Drafting note:** Again, ASX is proposing to amend rule 7.20 to remove the parenthetical reference to "interests" in a "trust". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" or "issued capital" of the entity are to be read as referring to the capital or issued capital of the scheme.

## Reorganisation of convertible securities (except options)

7.21 An entity which has \*convertible securities (except options) on issue may only reorganise its capital if, in respect of the \*convertible securities, the number of \*securities or the \*conversion price, or both, is reorganised so that the holder of the \*convertible securities will not receive a benefit that holders of \*ordinary securities do not receive. This rule does not prevent a rounding up of the number of \*securities to be received on conversion if the rounding up is approved at the \*security holders' meeting which approves the reorganisation.

Deleted: (in the case of a trust, interests)

Introduced 01/07/96 Origin: Listing rules 3N(3)(a) Amended 01/07/22

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**Drafting note:** Again, ASX is proposing to amend rule 7.21 to remove the parenthetical reference to "interests" in a "trust". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" or "issued capital" of the entity are to be read as referring to the capital or issued capital of the scheme.

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## Issues and reorganisations affecting trading prices

7.25 An entity must not issue bonus \*securities or reorganise its capital if the effect of doing so would be to decrease the price at which its \*main class of \*securities would be likely to trade after the issue or reorganisation to an amount less than 20 cents.

Deleted: (in the case of a trust, interests)

Introduced 01/07/96 Origin: Listing rule 3J(6) Amended 01/07/98, 01/07/22

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**Drafting note:** Again, ASX is proposing to amend rule 7.25 to remove the parenthetical reference to "interests" in a "trust". This will no longer be required if ASX proceeds with its proposal to amend the general interpretation provision in rule 19.11B(f) above to provide that where an entity is a managed investment scheme, references in the rules to the "capital" or "issued capital" of the entity are to be read as referring to the capital or issued capital of the scheme.

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## Buy-backs not under the Corporations Act

7.36 An entity not subject to the buy-back provisions of the Corporations Act may buy back its \*securities on-market only if it consults ASX before the buy-back and complies with any requirements ASX sets. ASX may require the entity to comply with the Corporations Act as if it were a company, or with the listing rules relating to on-market buy-backs by companies, with any adaptations that, in ASX's opinion, are appropriate.

Introduced 01/07/96 Origin: Listing rule 3V(12) Amended 30/09/01, 11/01/10, 01/07/22

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Note: [Managed investment schemes, CCIV sub-funds and foreign passport entities](#) cannot have withdrawal or buy-back provisions in their [constitutions](#) that operate while they are listed. See rule 1.1 condition 5. Therefore this rule will apply to [any of these entities that want to buy back their securities](#). [ASIC Corporations \(ASX-listed Schemes On-market Buy-backs\) Instrument 2016/1159](#) sets out the modification to Chapter 5C of the Corporations Act relating to on-market buy-backs by ASX-listed [Australian registered](#) schemes. This provides, among other things, that a responsible entity that buys back an interest in the scheme must comply with the listing rules of ASX that apply to buy-backs as if:

- (i) the scheme were a company included in the official list of the financial market of ASX; and
- (ii) interests in the scheme were shares in the company.

**Drafting note:** ASX is proposing to amend rule 7.36 to replace the references to a “trust” with references to a “managed investment scheme” and to update a reference to ASIC Class Order 07/422, which was repealed and replaced by the ASIC Corporations (ASX-listed Schemes On-market Buy-backs) Instrument 2016/1159 in 2016.

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## Proposed amendments to Chapter 10 of the ASX Listing Rules

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### Acquisition and disposal of assets

#### Approval required for certain acquisitions or disposals

10.1 An entity must ~~not, and must ensure that~~ its \*child entities ~~do not~~, \*acquire, or agree, to \*acquire a substantial asset from, or \*dispose of, or ~~agree, to~~ \*dispose of a substantial asset to, any of the following \*persons without the approval of the holders of the entity's \*ordinary securities.

10.1.1 A \*related party of the entity.

10.1.2 A \*child entity of the entity.

10.1.3 A \*person who is, or was at any time in the 6 months before the transaction or agreement, a \*substantial (10%+) holder in the entity.

10.1.4 An \*associate of a \*person referred to in rules 10.1.1 to 10.1.3.

10.1.5 A \*person whose relationship to the entity or a \*person referred to in rules 10.1.1 to 10.1.4 is such that, in ASX's opinion, the transaction should be approved by \*security holders.

The notice of meeting to obtain approval must comply with rule 10.5.

Introduced 01/07/96 Origin: Listing rules 3J(3)(a), (b) Amended 01/07/98, 13/03/00, 30/09/01, 01/07/14, 01/12/19, 01/07/22

**Drafting note:** ASX is proposing to amend rule 10.1 to remove the parenthetical reference to the responsible entity of a trust and to make some other minor amendments to improve its drafting.

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### Acquisition of securities in the entity

#### Approval required for certain issues of securities

10.11 Unless one of the exceptions in rule 10.12 applies, an entity must not issue or agree to issue \*equity securities to any of the following \*persons without the approval of the holders of its \*ordinary securities.

10.11.1 A \*related party.

10.11.2 A \*person who is, or was at any time in the 6 months before the issue or agreement, a \*substantial (30%+) holder in the entity.

10.11.3 A \*person who is, or was at any time in the 6 months before the issue or agreement, a \*substantial (10%+) holder in the entity and who has nominated a director;

(a) if the entity is a \*company – to the board of the entity; or

(b) if the entity is not a \*company – to the board of its \*governing body.

pursuant to a relevant agreement which gives them a right or expectation to do so.

10.11.4 An \*associate of a \*person referred to in rules 10.11.1 to 10.11.3.

10.11.5 A \*person whose relationship with the entity or a \*person referred to in rules 10.11.1 to 10.11.4 is such that, in ASX's opinion, the issue or agreement should be approved by \*security holders.

**Deleted:** to the board

**Deleted:** of the entity (in the case of a trust, to the board of the \*responsible entity of the trust)

The notice of meeting to obtain approval must comply with rule 10.13.

Introduced 01/07/96 Origin: Listing rules 3E(8)(a), 3E(8)(a)c Amended 01/07/00, 30/09/01, 01/12/19, 01/07/22

Note: Where security holders approve an issue of or agreement to issue securities under rule 10.11, the securities must be issued within one month of that approval or else the approval will lapse (see rule 10.13.5).

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**Drafting note:** ASX is proposing to amend rule 10.11.3 to remove the parenthetical reference to the board of the responsible entity of a trust and to address how the rule operates in the case of an entity that is not a company (as defined in rule 19.12).

10.13.8 If the <sup>\*</sup>person is:

- a director [of the entity or of its <sup>\\*</sup>governing body](#) and therefore a <sup>\*</sup>related party under rule 10.11.1; or
- an <sup>\*</sup>associate of, or <sup>\*</sup>person connected with, a director [of the entity or of its <sup>\\*</sup>governing body](#) under rules 10.11.4 or 10.14.5,

and the issue is intended to remunerate or incentivise the director, details (including the amount) of the director's current total remuneration package.

10.13.10 A <sup>\*</sup>voting exclusion statement.

Introduced 01/07/96 Origin: Listing Rule 3E(8)(a)c Amended 01/07/98, 01/07/00, 30/09/01, 24/10/05, 01/12/19, 01/07/22

**Drafting note:** ASX is proposing to make some consequential amendments to rule 10.13.8 reflecting the amendments proposed above to rule 10.11.3.

### Approval required to acquire securities under an employee incentive scheme

10.14 An entity must not permit any of the following <sup>\*</sup>persons to <sup>\*</sup>acquire <sup>\*</sup>equity securities under an <sup>\*</sup>employee incentive scheme without the approval of the holders of its <sup>\*</sup>ordinary securities.

10.14.1 If:

- (a) [the entity is a <sup>\\*</sup>company – a director of the entity; or](#)
- (b) [the entity is not a <sup>\\*</sup>company – a director of its <sup>\\*</sup>governing body.](#)

10.14.2 An <sup>\*</sup>associate of a <sup>\*</sup>person referred to in rule 10.14.1.

10.14.3 A <sup>\*</sup>person whose relationship with the entity or a <sup>\*</sup>person referred to in rule 10.14.1 or 10.14.2 is such that, in ASX's opinion, the acquisition should be approved by <sup>\*</sup>security holders.

The notice of meeting to obtain approval must comply with rule 10.15.

An approval under this rule ceases to be valid if there is a material change to the terms of the [employee incentive](#) scheme from those set out in the entity's notice of meeting.

Introduced 01/07/96 Origin: Listing rules 3E(8)(a)d, 3W(10) Amended 01/07/00, 30/09/01, 24/10/05, 01/07/14, 01/12/19, 01/07/22

Example: An acquisition of securities by a director's private company or family trust will generally be caught by rule 10.14.2 or 10.14.3.

Deleted: A director of the entity (in the case of a trust, a director of the <sup>\*</sup>responsible entity of the trust).

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**Drafting note:** ASX is proposing to amend rule 10.14.1 to remove the parenthetical reference to the board of the responsible entity of a trust and to address how the rule operates in the case of an entity that is not a company (as defined in rule 19.12).



10.15.4 If the person is:

- a director of the entity or of its governing body under rule 10.14.1; or
- an associate of, or person connected with, a director of the entity or of its governing body under rules 10.14.2 or 10.14.3,

details (including the amount) of the director's current total remuneration package.

10.15.12 A voting exclusion statement.

Introduced 01/07/96 Amended 30/09/01, 01/07/14, 01/12/19\_01/07/22

**Drafting note:** ASX is proposing to make some consequential amendments to rule 10.15.4 reflecting the amendments proposed above to rule 10.14.1.

## Exceptions to rule 10.14

10.16 Rule 10.14 does not apply to the following.

- (a) Securities purchased on-market by or on behalf of directors or their associates under an employee incentive scheme where the terms of the scheme permit such purchases.
- (b) The grant of options or other rights to acquire securities to directors or their associates under an employee incentive scheme, where the securities to be acquired on the exercise of the options or in satisfaction of the rights are required by the terms of the scheme to be purchased on-market.
- (c) An issue of equity securities pursuant to the exercise of an option or in satisfaction of a right to acquire such securities granted to directors or their associates under an employee incentive scheme. The entity must have issued the option or right:
  - (i) before it was listed and disclosed the information referred to in rules 10.15.1 – 10.15.10 in relation to the option or right in the prospectus, PDS or information memorandum lodged with ASX under rule 1.1 condition 3; or
  - (ii) after it was listed and with the approval of the holders of its ordinary securities under rule 10.14.

In each case, the issue of the equity securities pursuant to the exercise of the option or the performance of the right is taken to have been made with the approval of the holders of its ordinary securities under rule 10.14.

Introduced 01/07/14 Amended 01/12/19\_01/07/22

**Note:** The references in this rule to directors includes directors of the entity or its governing body (as referred to in rule 10.14.1).

On-market purchases of securities by or on behalf of directors or their associates under an employee incentive scheme, or to satisfy the entitlements of directors or their associates under options or other rights to acquire securities granted under an employee incentive scheme, are required to be notified to the market under rule 3.19A. They will also generally form part of the remuneration of directors and will therefore be disclosed in an entity's remuneration report. They are excluded from rule 10.14 on the basis that they do not dilute the interests of other security holders and, because they are effected at market prices, do not raise the same concerns about pricing as an issue of securities.

The term "on-market" in this rule has the same meaning as in section 9 of the Corporations Act (rule 19.3). It effectively excludes "special crossings" and crossings effected outside of normal market hours.

**Drafting note:** ASX is proposing to make some consequential amendments to the note to rule 10.16 reflecting the amendments proposed above to rule 10.14.1.

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## Payments to directors

10.17 [Subject to rules 10.17B and 10.17C](#), an entity must not increase the total aggregate amount of directors' fees payable to all of its non-executive directors without the approval of holders of its \*ordinary securities.

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The notice of meeting must include the following:

- the amount of the increase;
- the maximum aggregate amount of directors' fees that may be paid to all of the entity's non-executive directors;
- details of any \*securities issued to a non-executive director under rule 10.11 or 10.14 with the approval of the holders of the entity's \*ordinary securities at any time within the preceding 3 years; and
- a \*voting exclusion statement.

For the purposes of this rule, "directors' fees" means all fees payable by the entity or any of its \*child entities to a non-executive director for acting as a director of the entity or any \*child entity (including attending and participating in any board committee meetings) and includes superannuation contributions for the benefit of a non-executive director and any fees which a non-executive director agrees to sacrifice for other benefits. It does not include reimbursement of genuine out-of-pocket expenses, genuine "special exertion" fees paid in accordance with the entity's constitution, or \*securities issued to a non-executive director under rule 10.11 or 10.14 with the approval of the holders of the entity's \*ordinary securities).

Introduced 01/07/96 Origin: Listing rule 3L(7) Amended 01/06/10, 01/07/14, [01/07/22](#)

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Note 1: This rule does not apply to the director's fees paid to a non-executive director of a child entity who is not also a director of the entity.

Note 2: [To avoid doubt](#), directors' fees sacrificed to pay for the purchase of securities in the entity (whether under an employee incentive scheme of the type referred to in rule 10.15B or otherwise) must come out of the total amount of directors' fees approved by the holders of its ordinary securities under rule 10.17.

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Note 3: ASX does not regard acting as a director of a child entity or attending and participating in normal board committee meetings (such as an audit, nomination, remuneration or risk committee) of the entity or a child entity as a "special exertion" by a director and therefore the fees paid by an entity or any of its child entities to a non-executive director for such services must come out of the total amount of directors' fees approved by the holders of its ordinary securities under rule 10.17.

10.17A [Subject to rules 10.17B and 10.17C](#), the total amount of directors' fees paid to the [non-executive](#) directors of an entity by the entity or any of its \*child entities must not exceed the total amount of directors' fees approved by the holders of its \*ordinary securities under rule 10.17.

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Introduced 01/07/14 [Amended 01/07/22](#)

Note: This rule does not apply to the director's fees paid to a non-executive director of a child entity who is not also a director of the entity.

10.17B Rules 10.17 and 10.17A do not apply to the remuneration of an executive director. However, [subject to rule 10.17C](#), an executive director's remuneration must not include a commission on, or percentage of, operating revenue.

Introduced 01/07/14 [Amended 01/07/22](#)

### [10.17C Rules 10.17, 10.17A and 10.17B:](#)

(a) [apply to entities that are not \\*companies and that are \\*internally-managed as if the references in those rules to directors of the entity were references to the directors of the entity's governing body; but](#)

(b) [do not apply to entities that are not \\*companies and that are \\*externally-managed.](#)

[Introduced 01/07/22](#)

[Note: The specific references in rule 10.17C to the directors of the entity's governing body, and the application of rule 10.17C to rules 10.17, 10.17A and 10.17B, override the general rules in rules 19.11B – 19.11D on how to](#)

[interpret references to the directors of an entity in the listing rules where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.](#)

**Drafting note:** ASX is proposing to make some minor amendments to rules 10.17, 10.17A and 10.17B to clarify their intended operation and to add new rule 10.17C making it clear that rules 10.17, 10.17A and 10.17B do not apply to entities that are not companies and that are externally-managed. Remuneration matters for externally-managed entities are matters for its external manager rather than the security holders of the entity.

DRAFT

# Proposed amendments to Chapter 12 of the ASX Listing Rules

## Chapter 12

### Ongoing requirements

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The main headings in this chapter	Rules
Level of operations	12.1
Financial condition	12.2
Proportion of assets in cash	12.3
Level of spread	12.4
Appropriate structure and business operations	12.5
Person responsible for communications with ASX	12.6
Registration as a foreign company	12.6A – 12.6C
Audit committee	12.7
Remuneration committee	12.8
Trading Policy	12.9 – 12.12
Change in dividends, distributions or interest payments	12.13
<a href="#">Ongoing obligations for collective investment vehicles</a>	<a href="#">12.14</a>

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#### Registration as a foreign company

12.6A A \*foreign company must [continue to be](#) \*registered as a foreign company carrying on business in Australia.

Introduced 19/12/16 [Amended 01/07/22](#)

**Drafting note:** ASX is proposing to make some minor drafting changes to rule 12.6A to be consistent with the proposed changes to rule 12.6B and proposed new rule 12.6C below.

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12.6B [The \\*responsible entity of a \\*managed investment scheme admitted to the \\*official list as an \\*exempt scheme or a \\*wholesale scheme](#) must continue to [be](#) either an \*Australian company or a \*foreign company that is \*registered as a foreign company carrying on business in Australia.

Introduced 19/12/16 [Amended 01/07/22](#)

**Drafting note:** ASX is proposing to make some minor drafting changes to rule 12.6B to be consistent with the changes to rule 1.1 condition 5 above.

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12.6C The \*operator of a \*foreign passport entity admitted to the \*official list must continue to be \*registered as a foreign company carrying on business in Australia.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new rule 12.6C imposing an ongoing obligation on the operator of a foreign passport entity admitted to the official list to continue to be registered as a foreign company carrying on business in Australia under Part 5B.2 Division 2 of the Corporations Act.

## Audit committee

12.7 An entity which was included in the \*S & P All Ordinaries Index at the beginning of its financial year must:

(a) if it is a \*company, have an \*audit committee appointed by the directors of the \*company; or

(b) if it is not a \*company, have an \*audit committee appointed by the directors of the \*governing body of the entity.

during that year. If the entity was included in the \*S & P / ASX 300 Index at the beginning of its financial year, the \*audit committee must also comply with the recommendations of the \*ASX Corporate Governance Council regarding the composition and operation of an \*audit committee for the whole of that financial year, unless it had been included in that index for the first time less than 3 months before the beginning of that financial year.

An entity that is included in the \*S & P / ASX 300 Index for the first time less than 3 months before the first day of its financial year but did not comply with the recommendations of the \*ASX Corporate Governance Council in relation to composition and operation of an \*audit committee at that date must take steps so that it complies with those recommendations within 3 months of the beginning of the financial year.

Introduced 01/01/03 Origin: Listing rule 4.10.2 Amended 03/05/04, 11/01/10, 01/05/13, 01/07/14, 01/07/22

Note: If the entity is externally managed and it has a compliance committee, the entity's compliance committee may be the entity's audit committee, provided that committee otherwise meets the requirements of this rule.

The relevant recommendations of the ASX Corporate Governance Council in relation to the composition and operation of an audit committee are set out in paragraph (a) of recommendation 4.1 in the 4<sup>th</sup> edition of the Corporate Governance Principles and Recommendations, which recommends that the board of a listed entity should: (1) have at least three members, all of whom are non-executive directors and a majority of whom are independent directors; (2) be chaired by an independent director, who is not the chair of the board. It also recommends that the board disclose: (3) the charter of the committee; (4) the relevant qualifications and experience of the members of the committee; and (5) in relation to each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings

The S&P/ASX 300 Index is reviewed semi-annually. If an entity was included in the S&P/ASX 300 Index on the first day of its financial year but is subsequently not included in the S&P/ASX 300 Index following a semi-annual review, it must comply with this rule for the whole of the financial year. If an entity was not included in the S&P/ASX 300 Index on the first day of its financial year but is subsequently included in the S&P/ASX 300 Index following a semi-annual review, it need not comply with this rule for that financial year.

Entities which are included in the S&P/ASX 300 Index for the first time have a 3 month transitional period to constitute an audit committee that complies with the recommendations of the ASX Corporate Governance Council.

Examples: (1) An entity has a balance date of 30 June. It is included in the S&P/ASX 300 Index for the first time in September 2010. It will be required to have an audit committee that complies with the recommendations of the ASX Corporate Governance Council by no later 1 July 2011.

(2) An entity has a balance date of 31 March. It is included in the S&P/ASX 300 for the first time in early March 2010. It will be required to have an audit committee that complies with the recommendations of the ASX Corporate Governance Council by no later than 1 July 2010.

Cross reference: Rules 4.10.3, 19.11B(i), 19.11C(i), 19.11D(i) and 19.11E(k).

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**Drafting note:** ASX is proposing to amend rule 12.7 to remove the reference in the note to the rule to the audit committee of the responsible entity of a trust acting as the audit committee of the trust and to specify in the body of the rule how the rule operates where the entity is not a company (as defined in rule 19.12). ASX is also proposing to make some other drafting changes to rule 12.7 to clarify its intended operation. This includes amending the note to the rule to explain which recommendations in the *ASX Corporate Governance Council's Principles and Recommendations* are relevant to the composition and operation of an audit committee.

In addition, ASX is proposing to include guidance in the note to rule 12.7 – consistent with recommendation 4.1 of the *ASX Corporate Governance Council's Principles and Recommendations* – that the compliance committee of an externally-managed entity may act as the entity's audit committee provided it otherwise meets the requirements of rule 12.7.

## Remuneration Committee

12.8 An entity which was included in the +S & P / ASX 300 Index at the beginning of its financial year, ~~must,~~

(a) ~~if it is a \*company,~~ have a \*remuneration committee, appointed by the board of directors of the \*company which is comprised solely of non-executive directors, ~~of that board; or~~

(b) ~~if it is not a \*company and it is internally-managed,~~ have a \*remuneration committee appointed by the board of directors of the \*governing body of the entity which is comprised solely of non-executive directors of that board.

for the entire duration of that financial year.

[This requirement does not apply to an entity that is externally-managed.](#)

Introduced 01/07/11 [Amended 01/07/22](#)

Note: The +S & P / ASX 300 Index is reviewed semi-annually. If an entity was included in the Index on the first day of its financial year, but is subsequently not included in the Index following a semi-annual review, it must comply with this rule for the whole of the financial year. If an entity was not included in the Index on the first day of its financial year, but is subsequently included in the Index following a semi-annual review, it need not comply with this rule for that financial year.

[Cross reference: Rules 19.11B\(i\), 19.11C\(i\), 19.11D\(i\) and 19.11E\(k\).](#)

**Drafting note:** ASX is proposing to amend rule 12.8 to remove the reference in the note to the rule to the remuneration committee of the responsible entity of a trust acting as the remuneration committee of the trust and to specify in the body of the rule how it operates where the entity is not a company (as defined in rule 19.12). ASX is also proposing amendments to make it clear that rule 12.8 does not apply to externally-managed entities. These changes reflect the fact that for an externally-managed entity, the remuneration of the officers and staff employed by the external manager is properly a matter for the external manager rather than the security holders in the entity. That is the reason, for instance, why externally managed listed entities are excluded from the recommendation to have a remuneration committee (recommendation 8.1) in the *ASX Corporate Governance Council's Corporate Governance Principles and Recommendations* and why rule 3.16.4 does not apply to externally-managed entities.

ASX is also proposing to remove the reference in the note to rule 12.8 to the remuneration committee of the responsible entity of a trust acting as the remuneration committee of the trust. This issue is proposed to be covered by the general interpretation provisions in rules 19.11B – 19.11D for managed investment schemes, CCIV sub-funds and foreign passport entities, which treat references to a remuneration committee of a managed investment scheme, CCIV sub-fund or foreign passport entity, as a reference to a remuneration committee established by the directors of the responsible entity of the fund, the CCIV corporate director or the operator of the foreign passport entity (as appropriate).

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**Deleted:** If the entity is a trust its remuneration committee may also be the responsible entity's remuneration committee.¶ Where an entity is part of a corporate group, that has one or more related bodies corporate in the +S & P / ASX 300 Index, the board of that entity may utilise a remuneration committee of a related body corporate in the +S & P / ASX 300 Index in order to satisfy the requirements of listing rule 12.8.¶

In addition, ASX is proposing to remove the reference in the notes to rule 12.8 to using the remuneration committee of a related body corporate that is also in the S & P / ASX 300 index. In ASX's view, each entity should have its own complying remuneration committee comprised solely of non-executive directors. However, there is nothing in the rules precluding non-executive directors from serving on more than one board and on more than one remuneration committee for entities within the S & P / ASX 300 index.

...

## Ongoing obligations for collective investment vehicles

12.14 An entity that was admitted to the \*official list as:

- (a) an \*Australian registered scheme must continue to be an \*Australian registered scheme;
- (b) an \*exempt scheme must continue to have an exemption from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act or else become an \*Australian registered scheme;
- (c) a \*wholesale scheme must continue to not require registration as an \*Australian registered scheme by virtue of section 601ED(2) of the Corporations Act or else become an \*Australian registered scheme;
- (d) an \*NZ registered scheme making a \*recognised offer of securities must continue to be registered as a managed investment scheme under Part 4 Subpart 2 of the Financial Markets Conduct Act 2013 (NZ) and its \*manager must continue to be an \*NZ company;
- (e) a \*sub-fund of a \*retail CCIV must continue to be a \*sub-fund of a \*retail CCIV; or
- (f) a \*foreign passport entity must continue to be a notified foreign passport fund under Part 8A.4 of the Corporations Act.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add a new rule 12.14 imposing an ongoing obligation on an entity admitted as a managed investment scheme, CCIV sub-fund or foreign passport entity, to maintain the legal status under which it was admitted to the official list.

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## Proposed amendments to Chapter 14 of the ASX Listing Rules

### Explanatory note

The following table gives an overview of rules which require meetings. It also indicates if there are special notice requirements under the rules for those meetings.

Rule	Heading of rule	Particular notice requirements under the listing rules to be in the notice of meeting?
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...

7.6	Issues before a meeting to appoint or remove directors or <a href="#">*governing body</a> .	No
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[Amended 01/07/22](#)

**Drafting note:** ASX is proposing to amend the explanatory note to chapter 14 to reflect the changes proposed to be made to rule 7.6 above.

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### Election of directors – nominations

- 14.3 An entity [that is a \\*company or that is \\*internally-managed](#) must accept nominations for the election of directors up to 35 \*business days (in the case of a meeting that members have requested directors to call, 30 \*business days) before the date of a general meeting at which directors may be elected, unless the entity's constitution provides otherwise.

Introduced 01/07/96 Origin: Listing [rule 3L\(2\)](#) Amended 01/09/99, 24/10/05, 01/12/19, [01/07/22](#)

Note: This rule applies to meetings called by the entity of its own accord, and to meetings requested [by members](#) under the Corporations Act and called by the entity [see section 249D](#). [This rule also applies to an entity that is not a company and that is internally-managed as if the references in this rule to the directors of the entity were references to the directors of the entity's governing body.](#)

Cross reference: rule 3.13.

**Drafting note:** ASX is proposing to re-draft rule 14.3 to make it clear that the director nomination requirements only apply to listed companies and internally managed listed entities.

### Election of directors – rotation

- 14.4 A director of an entity [that is a \\*company or that is \\*internally-managed](#) must not hold office (without re-election) past the third annual general meeting following the director's appointment or 3 years, whichever is longer. However, a director appointed to fill a casual vacancy or as an addition to the board must not hold office (without re-election) past the next annual general meeting of the entity. This rule does not apply to the managing director (but if there is more than one managing director, only one is entitled not to be subject to re-election).

Introduced 01/07/96 Origin: Listing [rule 3L\(1\)](#) Amended 01/12/19, [01/07/22](#)

Note: This rule applies from the time of an entity's admission to the official list. [It also applies to an entity that is not a company and that is internally-managed as if the references in this rule to a director or the board of the entity were references to a director or the board of the entity's governing body.](#) A director appointed prior to the entity's admission to the official list must not hold office (without re-election) past the third annual general meeting following the entity's admission to the official list or 3 years following the entity's admission to the official list, whichever is longer. A director appointed to fill a casual vacancy or as an addition to the board prior to an entity's admission to the official list is not required to stand for re-election at the next annual general meeting following the entity's admission to the official list.

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provided she or he does not hold office past the time limits mentioned in the preceding sentence and the requirements of rule 14.5 are otherwise met.

Cross-reference: Rule 14.5.

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**Drafting note:** ASX is proposing to re-draft rule 14.4 to make it clear that the director rotation requirements only apply to listed companies and internally managed listed entities.

14.11.1 The \*person excluded from voting in favour of the resolution must be named or described in the notice of meeting. The \*persons who must be named or described are the following.

Rule	Disregard votes cast by:
...	...
10.17	<p><u>if the entity is a *company, a director of the entity,</u></p> <p><u>if the entity is not a *company and is *internally-managed, a director of the entity's *governing body.</u></p> <p>Introduced 01/07/96 Amended 01/07/98, 24/10/05, 01/12/19, <u>01/07/22</u></p> <p><u>Note: ASX has no objection to the voting exclusion required in relation to a resolution under rule 10.17 being combined with the voting exclusion required under section 250BD of the Corporations Act for proxy voting by key management personnel or their closely related parties on resolutions connected directly or indirectly with the remuneration of a member of key management personnel provided it excludes all votes required to be excluded under rule 10.17. Entities will also need to ensure that the combined voting exclusion complies with section 250BD.</u></p>

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**Drafting note:** ASX is proposing to remove the parenthetical reference to directors of the responsible entity in the entry for rule 10.17 in the table to rule 14.11.1 and to address now the entry applies to an entity that is not a company and is internally managed.

## Proposed amendments to Chapter 15 of the ASX Listing Rules

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

Introduced 01/09/99 Amended 01/07/22

Cross reference: rule 6.10.5

**Drafting note:** ASX is proposing to amend rule 15.13B to remove the parenthetical references to distributions by a trust. The proposed general interpretation provisions in Rules 19.11B – 19.11D above address how references in the rules to “dividends” should be read where the entity is a managed investment scheme, CCIV sub-fund or foreign passport entity.

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### Ownership restrictions

15.14 An entity that is not a \*company, which has provisions in its constitution relating to the acquisition of \*securities above a limit or \*substantial holdings must not have any sanctions or penalties in the constitution which entitle the \*governing body of the 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, 01/07/22

Example: A managed investment scheme 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 managed investment scheme 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.

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**Drafting note:** ASX is proposing to amend rule 15.14 to replace the reference to a trust and its responsible entity in that rule with a reference to an entity that is not a company and its governing body, respectively. It is also proposing to replace the references to a trust in the examples to that rule with references to a managed investment scheme.

...

## Proposed amendments to Chapter 16 of the ASX Listing Rules

...

### Fees for quotation of additional securities

16.4 An entity must pay the fees for \*quotation of additional \*securities set and published by ASX. It must do so when, and in the manner that, ASX specifies. However no fee is payable in any of the following cases, except under rule 16.7.

- \*Quotation of ~~v~~equity securities following the \*conversion of quoted \*convertible securities.
- \*Quotation of fully paid \*securities following the payment up in full of the amount unpaid on quoted partly paid \*securities.
- Re-quotation of forfeited shares after they have been sold, or redeemed by the former holder.

Introduced 01/07/96 Origin: Listing rules 3J(5), 4B(1), 4B(2), 4B(3), 4B(6) Amended 01/09/99, 01/12/19, 01/07/22

Note: ASX generally prepares a tax invoice when the Appendix 3B seeking quotation of additional securities has been processed and the securities have been quoted, and payment must be made within 7 days of the date of the invoice.

Cross reference: Listing rule 2.11; Guidance Note 15 – Schedule of Fees.

**Drafting note:** ASX is proposing to replace the reference to “shares” and “units” arising from the “conversion of quoted securities” in rule 16.4 with references to “equity securities” arising from the conversion of “quoted convertible securities”.

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## Proposed amendments to Appendix 1A of the ASX Listing Rules

Rules 1.1 Cond 3, 1.7

### Appendix 1A

#### ASX Listing Application

An Appendix 1A is the form made available by ASX from time to time on ASX Online and described as an Appendix 1A.

By giving an Appendix 1A form to ASX applying for admission to the \*official list as an ASX Listing and for the quotation of \*securities, an entity agrees as follows:

1. We acknowledge that our admission to the \*official list and classification as an ASX Listing is in ASX's absolute discretion. ASX may admit us on any conditions it decides. \*Quotation of our \*securities is in ASX's absolute discretion. ASX may quote our \*securities on any conditions it decides. Our removal from the \*official list, the suspension or ending of \*quotation of our \*securities, or a change in the category of our admission, is in ASX's absolute discretion. Without limiting this absolute discretion, ASX is entitled immediately to suspend \*quotation of our \*securities or remove us from the \*official list if we break this agreement.
2. We warrant to ASX that:
  - The \*securities to be quoted will be validly issued and their issue will comply with all relevant laws and regulations and not be for an illegal purpose.
  - The \*securities will comply with listing rule 2.1 or 2.5 (as applicable).
  - An offer of the \*securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act.
  - At the time the \*securities are quoted by ASX and at all times thereafter, section 724 and section 1016E of the Corporations Act will not apply to any applications received by us in relation to any of the \*securities and no-one will have any right to return any of the \*securities under sections 601MB(1), 737, 738, 992A, 992AA or 1016F of the Corporations Act.
  - If we are a [\\*managed investment scheme](#), [\\*CCIV](#) [\\*sub-fund](#) or [\\*foreign passport entity](#), at the time the \*securities are quoted by ASX and at all times thereafter, no person will have the right to return any of the \*securities under section 1019B of the Corporations Act.
  - All of the documents and information we have given, or will give, to ASX in connection with our admission to the \*official list and the \*quotation of the \*securities are, or will be, accurate, complete and not misleading.
  - There is no other reason why the \*securities should not be granted \*quotation.
3. We will give ASX the information and documents required by the Appendix 1A form, including the information and documents referred to in the *Information Form and Checklist (ASX Listing)* published on the ASX website. If any information or document is not available now, we will give it to ASX before \*quotation of our \*securities begins.
4. We will indemnify ASX to the fullest extent permitted by law in respect of any claim, action or expense arising from, or connected with, any breach of a warranty in this agreement.
5. We will comply with the listing rules that are in force from time to time, even if \*quotation of our \*securities is deferred, suspended or subject to a \*trading halt.

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6. We agree that the listing rules are to be interpreted:
- in accordance with their spirit, intention and purpose;
  - by looking beyond form to substance; and
  - in a way that best promotes the principles on which the listing rules are based.
7. We acknowledge that ASX may:
- exercise, or decide not to exercise, any power or discretion conferred under the listing rules in its absolute discretion and on any conditions;
  - waive a listing rule (except one that specifies that ASX will not waive it), either on our application or of its own accord and on any conditions;
  - decide to take no action in response to a breach of a listing rule or a condition imposed under the listing rules and on any conditions; and
  - at any time vary or revoke a decision under the listing rules, either on our application or of its own accord.
8. 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, digitising, storing in a retrieval system, releasing to the market, transmitting to the public, publishing any part of the document, and permitting others to do so. This includes a document given to ASX in support of the listing application or in compliance with the listing rules.
9. In any proceedings, a copy or extract of any document or information given to ASX is of equal validity in evidence as the original.
10. We acknowledge that this application also operates as an application to the \*approved CS facility for approval for the entity to act as an issuer under the operating rules of the \*approved CS facility and:
- In the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility, to have \*CDIs issued over the entity's \*securities and to have those \*CDIs approved for participation in the \*approved CS facility.
  - In all other cases, for the approval of the entity's \*securities under those operating rules for participation in the \*approved CS facility.
11. Except in the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility:
- The \*approved CS facility is irrevocably authorised to establish and administer a subregister in respect of the \*securities for which \*quotation is sought.
  - We will satisfy the \*technical and performance requirements of the \*approved CS facility and meet any other requirements the \*approved CS facility imposes in connection with the participation of our \*securities in the \*approved CS facility.
  - When \*securities are issued we will enter them in the \*approved CS facility's subregister holding of the applicant before they are quoted, if the applicant instructs us on the application form to do so.
12. In the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility:
- We appoint CHES Depositary Nominees Pty Ltd (CDN) to act as the depositary nominee in respect of any \*CDIs issued over the \*securities for which \*quotation is sought and acknowledge the indemnity given by us to CDN as the depositary nominee, and accept the power of attorney given to us by CDN as the depositary nominee, under the operating rules of the \*approved CS facility.

- The \*approved CS facility is irrevocably authorised to establish and administer a subregister in respect of \*CDIs over the \*securities for which \*quotation is sought.
  - We will satisfy the \*technical and performance requirements of the \*approved CS facility and meet any other requirements the \*approved CS facility imposes in connection with the participation of our \*CDIs in the \*approved CS facility.
  - When \*CDIs are issued we will enter them in the \*approved CS facility's subregister holding of the applicant before the \*securities they are over are quoted, if the applicant instructs us on the application form to do so.
  - We will make sure that \*CDIs are issued over \*securities if the holder of quoted \*securities asks for \*CDIs.
13. We consent to ASX disclosing to any third party (including, without limitation, any credit worthiness checking organisation, regulatory authority, financial market operator or clearing and settlement facility) any information that has been provided to ASX by us or on our behalf in connection with this application, as ASX considers necessary or appropriate for the purposes of ASX's assessment of this application.
14. We consent to any third party (including, without limitation, any credit worthiness checking organisation, regulatory authority, financial market operator and/or clearing and settlement facility) disclosing to ASX any information relating to us or our employees, officers or agents, as ASX considers necessary or appropriate for the purposes of ASX's assessment of this application.

And, if the entity applying for admission is a \*managed investment scheme, \*CCIV \*sub-fund or \*foreign passport entity, by giving an Appendix 1A form to ASX applying for admission of the entity to the \*official list as an ASX Listing and for the quotation of \*securities, the \*governing body of the entity will be taken:

- to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in paragraphs 1 – 14 above in its capacity as the \*governing body of the entity for and on behalf of the entity; and
- in its capacity as the \*governing body of the entity and for itself and its successors to that role, to have covenanted in favour of ASX, that if and for so long as the entity is admitted to the \*official list, the \*governing body will do all things necessary to cause the entity to comply with the listing rules.

In the case of a \*CCIV \*sub-fund, the \*CCIV will also be taken to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in paragraphs 1 – 14 above in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the \*CCIV \*sub-fund under Part 8B.5 of the Corporations Act and to have covenanted in favour of ASX, that if and for so long as the \*CCIV \*sub-fund is admitted to the \*official list, the \*CCIV will do all things necessary to cause the \*CCIV \*sub-fund to comply with the listing rules.

Amended 01/12/19, 01/07/22

**Drafting note:** ASX is proposing to amend Appendix 1A of the listing rules to add the provision above dealing with applications for admission as an ASX Listing by a managed investment scheme, CCIV sub-fund or foreign passport entity. The provision recognises that these entities often do not have a separate legal personality and so any acknowledgements, warranties, indemnities, agreements, authorisations and consents in an Appendix 1A application for listing need to be given for and on behalf of the entity by its governing entity.

ASX is proposing to make corresponding changes to the Appendix 1A application form on ASX Online.

## Proposed amendments to Appendix 1B of the ASX Listing Rules

Rule 1.9

### Appendix 1B

#### ASX Debt Listing Application

An Appendix 1B is the form made available by ASX from time to time on ASX Online and described as an Appendix 1B.

By giving an Appendix 1B form to ASX applying for admission to the \*official list as an ASX Debt Listing and [\(where applicable\)](#) for the quotation of \*securities, an entity agrees as follows:

1. We acknowledge that our admission to the \*official list and classification as an ASX Debt Listing is in ASX's absolute discretion. ASX may admit us on any conditions it decides. [Where applicable](#), \*quotation of our \*securities is in ASX's absolute discretion. ASX may quote our \*securities on any conditions it decides. Our removal from the \*official list, the suspension or ending of \*quotation of our \*securities, or a change in the category of our admission, is in ASX's absolute discretion. Without limiting this absolute discretion, ASX is entitled immediately to suspend \*quotation of our \*securities or remove us from the \*official list if we break this agreement.
2. [Where any of our \\*securities are to be quoted on ASX](#), we warrant to ASX that:
  - The \*securities will be validly issued and their issue will comply with all relevant laws and regulations and not be for an illegal purpose.
  - The \*securities will comply with listing rule 2.1 or 2.5 (as applicable).
  - An offer of the \*securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act.
  - At the time the \*securities are quoted by ASX and at all times thereafter, section 724 and section 1016E of the Corporations Act will not apply to any applications received by us in relation to any of the \*securities and no-one will have any right to return any of the \*securities under sections 601MB(1), 737, 738, 992A, 992AA or 1016F of the Corporations Act.
  - If we are a [\\*managed investment scheme](#), [\\*CCIV](#) [\\*sub-fund](#) or [\\*foreign passport entity](#), at the time the \*securities are quoted by ASX and at all times thereafter, no person will have the right to return any of the \*securities under section 1019B of the Corporations Act.
  - All of the documents and information we have given, or will give, to ASX in connection with our admission to the \*official list and [\(where applicable\)](#) the \*quotation of our \*securities are, or will be, accurate, complete and not misleading.
  - There is no other reason why the \*securities should not be granted \*quotation.
3. We will give ASX the information and documents required by the Appendix 1B form, including the information and documents referred to in the *Information Form and Checklist (ASX Debt Listing)* published on the ASX website. If any information or document is not available now, we will give it to ASX before [our admission to the \\*official list or \(where applicable\) before](#) \*quotation of our \*securities begins.
4. We will indemnify ASX to the fullest extent permitted by law in respect of any claim, action or expense arising from, or connected with, any breach of a warranty in this agreement.

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5. We will comply with the listing rules that are in force from time to time, even if [our \\*securities are not quoted or](#) \*quotation of our \*securities is deferred, suspended or subject to a \*trading halt.
6. We agree that the listing rules are to be interpreted:
  - in accordance with their spirit, intention and purpose;
  - by looking beyond form to substance; and
  - in a way that best promotes the principles on which the listing rules are based.
7. We acknowledge that ASX may:
  - exercise, or decide not to exercise, any power or discretion conferred under the listing rules in its absolute discretion and on any conditions;
  - waive a listing rule (except one that specifies that ASX will not waive it), either on our application or of its own accord and on any conditions;
  - decide to take no action in response to a breach of a listing rule or a condition imposed under the listing rules and on any conditions; and
  - at any time vary or revoke a decision under the listing rules, either on our application or of its own accord.
8. 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, digitising, storing in a retrieval system, releasing to the market, transmitting to the public, publishing any part of the document, and permitting others to do so. This includes a document given to ASX in support of the listing application or in compliance with the listing rules.
9. In any proceedings, a copy or extract of any document or information given to ASX is of equal validity in evidence as the original.
10. We acknowledge that this application also operates as an application to the \*approved CS facility for approval for the entity to act as an issuer under the operating rules of the \*approved CS facility and:
  - In the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility, to have \*CDIs issued over the entity's \*securities and to have those \*CDIs approved for participation in the \*approved CS facility.
  - In all other cases, for the approval of the entity's \*securities under those operating rules for participation in the \*approved CS facility.
11. Except in the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility:
  - The \*approved CS facility is irrevocably authorised to establish and administer a subregister in respect of the \*securities for which \*quotation is sought [or any other \\*securities intended to be settled through the \\*approved CS facility](#).
  - We will satisfy the \*technical and performance requirements of the \*approved CS facility and meet any other requirements the \*approved CS facility imposes in connection with the participation of our \*securities in the \*approved CS facility.
  - When \*securities are issued we will enter them in the \*approved CS facility's subregister holding of the applicant [\(and, if they are intended to be quoted, before they are quoted\)](#), if the applicant instructs us on the application form to do so.
12. In the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility:



- We appoint CHES Depositary Nominees Pty Ltd (CDN) to act as the depositary nominee in respect of any \*CDIs issued over the \*securities for which \*quotation is sought over or any other \*securities intended to be settled through the \*approved CS facility and acknowledge the indemnity given by us to CDN as the depositary nominee, and accept the power of attorney given to us by CDN as the depositary nominee, under the operating rules of the \*approved CS facility.
  - The \*approved CS facility is irrevocably authorised to establish and administer a subregister in respect of \*CDIs over the \*securities for which \*quotation is sought or over any other \*securities intended to be settled through the \*approved CS facility.
  - We will satisfy the \*technical and performance requirements of the \*approved CS facility and meet any other requirements the \*approved CS facility imposes in connection with the participation of our \*CDIs in the \*approved CS facility.
  - When \*CDIs are issued we will enter them in the \*approved CS facility's subregister holding of the applicant (and, if they are intended to be quoted, before the \*securities they are over are quoted), if the applicant instructs us on the application form to do so.
  - We will make sure that \*CDIs are issued over \*securities if the holder of quoted \*securities asks for \*CDIs.
13. We consent to ASX disclosing to any third party (including, without limitation, any credit worthiness checking organisation, regulatory authority, financial market operator or clearing and settlement facility) any information that has been provided to ASX by us or on our behalf in connection with this application, as ASX considers necessary or appropriate for the purposes of ASX's assessment of this application.
14. We consent to any third party (including, without limitation, any credit worthiness checking organisation, regulatory authority, financial market operator and/or clearing and settlement facility) disclosing to ASX any information relating to us or our employees, officers or agents, as ASX considers necessary or appropriate for the purposes of ASX's assessment of this application.

And, if the entity applying for admission is a \*managed investment scheme, \*CCIV \*sub-fund or \*foreign passport entity, by giving an Appendix 1B form to ASX applying for admission of the entity to the \*official list as an ASX Debt Listing and (where applicable) for the quotation of \*securities, the \*governing body of the entity will be taken:

- to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in paragraphs 1 – 14 above in its capacity as the \*governing body of the entity for and on behalf of the entity; and
- in its capacity as the \*governing body of the entity and for itself and its successors to that role, to have covenanted in favour of ASX, that if and for so long as the entity is admitted to the \*official list, the \*governing body will do all things necessary to cause the entity to comply with the listing rules.

In the case of a \*CCIV \*sub-fund, the \*CCIV will also be taken to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in paragraphs 1 – 14 above in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the \*CCIV \*sub-fund under Part 8B.5 of the Corporations Act and to have covenanted in favour of ASX, that if and for so long as the \*CCIV \*sub-fund is admitted to the \*official list, the \*CCIV will do all things necessary to cause the \*CCIV \*sub-fund to comply with the listing rules.

Amended 01/12/19, 01/07/22

**Drafting note:** ASX is proposing to amend Appendix 1B of the listing rules to add the provision above dealing with applications for admission as an ASX Debt Listing by a managed investment scheme, CCIV sub-fund or foreign passport entity. The provision recognises that these entities often do not have a separate legal personality and so any acknowledgements, warranties, indemnities, agreements, authorisations and consents in an Appendix 1B application for listing need to be given for and on behalf of the entity by its governing entity.

ASX is also proposing some minor changes to Appendix B so that it caters better for wholesale debt listings, whose securities are not quoted on ASX.

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ASX is proposing to make corresponding changes to the Appendix 1B application form on ASX Online.

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## Proposed amendments to Appendix 1C of the ASX Listing Rules

Rule 1.14

### Appendix 1C

#### ASX Foreign Exempt Listing Application

An Appendix 1C is the form made available by ASX from time to time on ASX Online and described as an Appendix 1C.

By giving an Appendix 1C form to ASX applying for admission to the \*official list as an ASX Foreign Exempt Listing and for the quotation of \*securities, an entity agrees as follows:

1. We acknowledge that our admission to the \*official list and classification as an ASX Foreign Exempt Listing is in ASX's absolute discretion. ASX may admit us on any conditions it decides. \*Quotation of our \*securities is in ASX's absolute discretion. ASX may quote our \*securities on any conditions it decides. Our removal from the \*official list, the suspension or ending of \*quotation of our \*securities, or a change in the category of our admission, is in ASX's absolute discretion. Without limiting this absolute discretion, ASX is entitled immediately to suspend \*quotation of our \*securities or remove us from the \*official list if we break this agreement.
2. We warrant to ASX that:
  - The \*securities to be quoted will be validly issued and their issue will comply with all relevant laws and regulations and not be for an illegal purpose.
  - The \*securities will comply with listing rule 2.1 or 2.5 (as applicable).
  - An offer of the \*securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act.
  - At the time the \*securities are quoted by ASX and at all times thereafter, section 724 and section 1016E of the Corporations Act will not apply to any applications received by us in relation to any of the \*securities and no-one will have any right to return any of the \*securities under sections 601MB(1), 737, 738, 992A, 992AA or 1016F of the Corporations Act.
  - If we are a [\\*managed investment scheme](#), [\\*CCIV](#) [\\*sub-fund](#) or [\\*foreign passport entity](#), at the time the \*securities are quoted by ASX and at all times thereafter, no person will have the right to return any of the \*securities under section 1019B of the Corporations Act.
  - All of the documents and information we have given, or will give, to ASX in connection with our admission to the \*official list and the \*quotation of our \*securities are, or will be, accurate, complete and not misleading.
  - There is no other reason why the \*securities should not be granted \*quotation.
3. We will give ASX the information and documents required by the Appendix 1C form, including the information and documents referred to in the *Information Form and Checklist (ASX Foreign Exempt Listing)* published on the ASX website. If any information or document is not available now, we will give it to ASX before \*quotation of our \*securities begins.
4. We will indemnify ASX to the fullest extent permitted by law in respect of any claim, action or expense arising from, or connected with, any breach of a warranty in this agreement.
5. We will comply with the listing rules that are in force from time to time, even if \*quotation of our \*securities is deferred, suspended or subject to a \*trading halt.

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6. We agree that the listing rules are to be interpreted:
- in accordance with their spirit, intention and purpose;
  - by looking beyond form to substance; and
  - in a way that best promotes the principles on which the listing rules are based.
7. We acknowledge that ASX may:
- exercise, or decide not to exercise, any power or discretion conferred under the listing rules in its absolute discretion and on any conditions;
  - waive a listing rule (except one that specifies that ASX will not waive it), either on our application or of its own accord and on any conditions;
  - decide to take no action in response to a breach of a listing rule or a condition imposed under the listing rules and on any conditions; and
  - at any time vary or revoke a decision under the listing rules, either on our application or of its own accord.
8. We will comply with the listing rules (or their equivalent) of our \*overseas home exchange.
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, digitising, storing in a retrieval system, releasing to the market, transmitting to the public, publishing any part of the document, and permitting others to do so. This includes a document given to ASX in support of the listing application or in compliance with the listing rules.
10. In any proceedings, a copy or extract of any document or information given to ASX is of equal validity in evidence as the original.
11. We acknowledge that this application also operates as an application to the \*approved CS facility for approval for the entity to act as an issuer under the operating rules of the \*approved CS facility and:
- In the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility, to have \*CDIs issued over the entity's \*securities and to have those \*CDIs approved for participation in the \*approved CS facility.
  - In all other cases, for the approval of the entity's \*securities under those operating rules for participation in the \*approved CS facility.
12. Except in the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility:
- The \*approved CS facility is irrevocably authorised to establish and administer a subregister in respect of the \*securities for which \*quotation is sought.
  - We will satisfy the \*technical and performance requirements of the \*approved CS facility and meet any other requirements the \*approved CS facility imposes in connection with the participation of our \*securities in the \*approved CS facility.
  - When \*securities are issued we will enter them in the \*approved CS facility's subregister holding of the applicant before they are quoted, if the applicant instructs us on the application form to do so.
13. In the case of an entity established in a jurisdiction whose laws have the effect that the entity's \*securities cannot be registered or transferred under the operating rules of the \*approved CS facility:
- We appoint CHESSE Depository Nominees Pty Ltd (CDN) to act as the depository nominee in respect of any \*CDIs issued over the \*securities for which \*quotation is sought and acknowledge the indemnity given by us to CDN as the depository

nominee, and accept the power of attorney given to us by CDN as the depository nominee, under the operating rules of the \*approved CS facility.

- The \*approved CS facility is irrevocably authorised to establish and administer a subregister in respect of \*CDIs over the \*securities for which \*quotation is sought.
- We will satisfy the \*technical and performance requirements of the \*approved CS facility and meet any other requirements the \*approved CS facility imposes in connection with the participation of our \*CDIs in the \*approved CS facility.
- When \*CDIs are issued we will enter them in the \*approved CS facility's subregister holding of the applicant before the \*securities they are over are quoted, if the applicant instructs us on the application form to do so.
- We will make sure that \*CDIs are issued over \*securities if the holder of quoted \*securities asks for \*CDIs.

14. We consent to ASX disclosing to any third party (including, without limitation, any credit worthiness checking organisation, regulatory authority, financial market operator or clearing and settlement facility) any information that has been provided to ASX by us or on our behalf in connection with this application, as ASX considers necessary or appropriate for the purposes of ASX's assessment of this application.

15. We consent to any third party (including, without limitation, any credit worthiness checking organisation, regulatory authority, financial market operator and/or clearing and settlement facility) disclosing to ASX any information relating to us or our employees, officers or agents, as ASX considers necessary or appropriate for the purposes of ASX's assessment of this application and of our ongoing compliance with the listing rules of ASX (including, without limitation, any requirement that we must comply with the listing rules (or their equivalent) of our \*overseas home exchange).

And, if the entity applying for admission is a \*managed investment scheme, \*CCIV \*sub-fund or \*foreign passport entity, by giving an Appendix 1C form to ASX applying for admission of the entity to the \*official list as an ASX Foreign Exempt Listing and for the quotation of \*securities, the \*governing body of the entity will be taken:

- to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in paragraphs 1 – 15 above in its capacity as the \*governing body of the entity for and on behalf of the entity; and
- in its capacity as the \*governing body of the entity and for itself and its successors to that role, to have covenanted in favour of ASX, that if and for so long as the entity is admitted to the \*official list, the \*governing body will do all things necessary to cause the entity to comply with the listing rules.

In the case of a \*CCIV \*sub-fund, the \*CCIV will also be taken to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in paragraphs 1 – 15 above in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the \*CCIV \*sub-fund under Part 8B.5 of the Corporations Act and to have covenanted in favour of ASX, that if and for so long as the \*CCIV \*sub-fund is admitted to the \*official list, the \*CCIV will do all things necessary to cause the \*CCIV \*sub-fund to comply with the listing rules.

Amended 01/12/19\_01/07/22

**Drafting note:** ASX is proposing to amend Appendix 1C of the listing rules to add the provision above dealing with applications for admission as an ASX Foreign Exempt Listing by a managed investment scheme, CCIV sub-fund or foreign passport entity. The provision recognises that these entities often do not have a separate legal personality and so any acknowledgements, warranties, indemnities, agreements, authorisations and consents in an Appendix 1C application for listing need to be given for and on behalf of the entity by its governing body.

ASX is proposing to make corresponding changes to the Appendix 1C application form on ASX Online.

## Proposed amendments to Appendix 1A ASX Online form

### Appendix 1A

#### Application for Admission to the ASX Official List (ASX Listing)

Name of entity<sup>a</sup>

ABN/ACN/ARBN/ARSN/ARFN/NFPFRN or  
equivalent (identify which)

Date of this form

We (the entity named above) apply for admission to the <sup>a</sup>official list of ASX Limited (ASX) as an ASX Listing and for <sup>a</sup>quotation of the following <sup>a</sup>securities (or such other number of <sup>a</sup>securities as we may notify to ASX prior to the commencement of <sup>a</sup>quotation):

	Number	<sup>a</sup> Class
Estimated maximum number and <sup>a</sup> class of <sup>a</sup> securities to be quoted on ASX at the commencement of quotation on ASX		

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By giving this form to ASX, we agree to the matters set out in Appendix 1A of the ASX Listing Rules.

Notes:

- If the entity applying for admission is a <sup>a</sup>managed investment scheme, <sup>a</sup>CCIV <sup>a</sup>sub-fund or <sup>a</sup>foreign passport entity:
  - the application must be in the name of that entity and include its ARSN, ARFN, NFPFRN or equivalent identifier; and
  - by giving this application form to ASX, the <sup>a</sup>governing body of the entity will be taken:
    - to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in Appendix 1A of the ASX Listing Rules in its capacity as the <sup>a</sup>governing body of the entity for and on behalf of the entity; and
    - in its capacity as the <sup>a</sup>governing body of the entity and for itself and its successors to that role, to have covenanted in favour of ASX, that if and for so long as the entity is admitted to the <sup>a</sup>official list, the <sup>a</sup>governing body will do all things necessary to cause the entity to comply with the ASX Listing Rules.

In the case of a <sup>a</sup>CCIV <sup>a</sup>sub-fund, the <sup>a</sup>CCIV will also be taken to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in Appendix 1A of the ASX Listing Rules in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the <sup>a</sup>CCIV <sup>a</sup>sub-fund under Part 8B.5 of the Corporations Act and to have covenanted in favour of ASX, that if and for so long as the <sup>a</sup>CCIV <sup>a</sup>sub-fund is admitted to the <sup>a</sup>official list, the <sup>a</sup>CCIV will do all things necessary to cause the <sup>a</sup>CCIV <sup>a</sup>sub-fund to comply with the listing rules.
- An entity applying for admission to the official list as an ASX Listing must also provide to ASX the information and documents referred to in the Information Form and Checklist (ASX Listing) published on the ASX website.

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**Drafting note:** ASX is proposing to amend the Appendix 1A ASX Online form to reflect the changes to Appendix 1A of the listing rules above.

## Proposed amendments to Appendix 1B ASX Online form

### Appendix 1B

#### Application for Admission to the ASX Official List (ASX Debt Listing)

Name of entity<sup>1</sup>

ABN/ACN/ARBN/ARSN/ARFN/NFPFRN or  
equivalent (identify which)

Date of this form

We (the entity named above) apply for admission to the \*official list of ASX Limited (ASX) as an ASX Debt Listing and (where applicable) for \*quotation of the following \*securities (or such other number of \*securities as we may notify to ASX prior to the commencement of \*quotation):

	Number	*Class
Estimated maximum number and *class of *securities to be quoted on ASX at the commencement of quotation on ASX <sup>2</sup>		

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By giving this form to ASX, we agree to the matters set out in Appendix 1B of the ASX Listing Rules.

Notes:

- If the entity applying for admission is a \*managed investment scheme, \*CCIV \*sub-fund or \*foreign passport entity:
  - the application must be in the name of that entity and include its ARSN, ARFN, NFPFRN or equivalent identifier; and
  - by giving this application form to ASX, the \*governing body of the entity will be taken:
    - to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in Appendix 1B of the ASX Listing Rules in its capacity as the \*governing body of the entity for and on behalf of the entity; and
    - in its capacity as the \*governing body of the entity and for itself and its successors to that role, to have covenanted in favour of ASX, that if and for so long as the entity is admitted to the \*official list, the \*governing body will do all things necessary to cause the entity to comply with the ASX Listing Rules.
 In the case of a \*CCIV \*sub-fund, the \*CCIV will also be taken to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in Appendix 1B of the ASX Listing Rules in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the \*CCIV \*sub-fund under Part 8B.5 of the Corporations Act and to have covenanted in favour of ASX, that if and for so long as the \*CCIV \*sub-fund is admitted to the \*official list, the \*CCIV will do all things necessary to cause the \*CCIV \*sub-fund to comply with the listing rules.
- Insert 'N/A' in both cells of this table to the right if you are applying to be admitted to the official list as an issuer of wholesale debt securities.
- An entity applying for admission to the official list as an ASX Debt Listing must also provide to ASX the information and documents referred to in the Information Form and Checklist (ASX Debt Listing) published on the ASX website.

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**Drafting note:** ASX is proposing to amend the Appendix 1B ASX Online form to reflect the changes to Appendix 1B of the listing rules above.

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## Proposed amendments to Appendix 1C ASX Online form

### Appendix 1C

#### Application for Admission to the ASX Official List (ASX Foreign Exempt Listing)

Name of entity<sup>1</sup>

ABN/ACN/ARBN/ARSN/ARFN/NFPFRN or  
equivalent (identify which)

Date of this form

We (the entity named above) apply for admission to the \*official list of ASX Limited (ASX) as an ASX Foreign Exempt Listing and for \*quotation of the following \*securities (or such other number of \*securities as we may notify to ASX prior to the commencement of \*quotation):

	Number	*Class
Estimated maximum number and *class of *securities to be quoted on ASX at the commencement of quotation on ASX		

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By giving this form to ASX, we agree to the matters set out in Appendix 1C of the ASX Listing Rules.

Notes:

- If the entity applying for admission is a \*managed investment scheme, \*CCIV \*sub-fund or \*foreign passport entity:
  - the application must be in the name of that entity and include its ARSN, ARFN, NFPFRN or equivalent identifier; and
  - by giving this application form to ASX, the \*governing body of the entity will be taken:
    - to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in Appendix 1C of the ASX Listing Rules in its capacity as the \*governing body of the entity for and on behalf of the entity; and
    - in its capacity as the \*governing body of the entity and for itself and its successors to that role, to have covenanted in favour of ASX, that if and for so long as the entity is admitted to the \*official list, the \*governing body will do all things necessary to cause the entity to comply with the ASX Listing Rules.

In the case of a \*CCIV \*sub-fund, the \*CCIV will also be taken to have given the acknowledgements, warranties, indemnities, agreements, authorisations and consents in Appendix 1C of the ASX Listing Rules in its capacity as the entity which owns the assets, and owes the liabilities, allocated to the \*CCIV \*sub-fund under Part 8B.5 of the Corporations Act and to have covenanted in favour of ASX, that if and for so long as the \*CCIV \*sub-fund is admitted to the \*official list, the \*CCIV will do all things necessary to cause the \*CCIV \*sub-fund to comply with the listing rules.
- An entity applying for admission to the official list as an ASX Foreign Exempt Listing must also provide to ASX the information and documents referred to in the Information Form and Checklist (ASX Foreign Exempt Listing) published on the ASX website.

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**Drafting note:** ASX is proposing to amend the Appendix 1C ASX Online form to reflect the changes to Appendix 1C of the listing rules above.

**Annexure B:**

***Proposed amendments to the ASX Operating Rules to facilitate the admission of CCIV and certain other collective investment products:***

- ***to trading status on the ASX AQUA market, and/or***
- ***for settlement through the mFund settlement service***

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# Proposed amendments to Section 7 of the ASX Operating Rules

## SECTION 7 DEFINITIONS AND INTERPRETATION

### DEFINITIONS

[7100] In these Rules and in the Procedures, unless the context otherwise requires:

**“CCIV”** means an entity that is registered as a CCIV (corporate collective investment vehicle) under Part 8B.2 of the Corporations Act and that is a retail CCIV under section 1222J of the Corporations Act.

Introduced 01/07/22

**“CCIV Corporate Director”**, in relation to a CCIV, means the corporate director of the CCIV, as defined in section 1224 of the Corporations Act.

**“CCIV Sub-fund”**, in relation to a CCIV, means a sub-fund of the CCIV registered under section 1222S of the Corporations Act.

Introduced 01/07/22

**Drafting note:** ASX is proposing to add definitions of “CCIV”, “CCIV Corporate Director” and “CCIV Sub-fund” in rule [7100] to facilitate the admission of financial products issued by a CCIV to trading status on ASX or for settlement through the Managed Fund Settlement Service (mFund).

**“ETF”** means a collective investment that:

(a) is one of the following:

- (i) a managed investment scheme registered under Part 5C.1 of the Corporations Act;
- (ii) a managed investment scheme that ASIC has exempted from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act;

(iii) a managed investment scheme registered under Part 4 Subpart 2 of the Financial Markets Conduct Act 2013 (NZ) making a recognised offer of securities (within the meaning of section 1200B of the Corporations Act);

(iv) a CCIV Sub-fund;

(v) a Notified Foreign Passport Fund; or

(vi) a foreign body which:

- (A) has the economic features of a CCIV or managed investment scheme, namely:
  - a. investors contribute money or money’s worth to acquire rights to benefits produced by the collective investment;
  - b. contributions of investors are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for

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investors holding Financial Products in the collective investment; and

- c. investors holding Financial Products issued in the collective investment do not have day to day control over the operation of the collective investment; and

(B) is a type of body specified in the Procedures;

- (b) is listed on ASX or admitted under Rule [2121];
- (c) has the power and approval to continuously issue and have quoted on ASX ETF Securities;
- (d) allows applications for and redemptions of ETF Securities in the primary market, in-specie or in cash (or a combination of both); and
- (e) for which the price of the Underlying Instrument is continuously disclosed or can be immediately ascertained.

*Note: For the purposes of paragraph (c) above, ETF Securities issued by the ETF will need to be Financial Products which can be dealt with on the Market (see Rule 2000) and be Division 4 financial products as defined in Regulation 7.11.03 of the Corporations Regulations in order to be capable of being CS Approved Products.*

Amended 13/05/15, 01/07/22

**Drafting note:** ASX is proposing to extend the definition of "ETF" in rule [7100] to include CCIV sub-funds and NFPFs, and NZ registered managed investment schemes making a "recognised offer" of securities under chapter 8 of the Corporations Act. This will allow financial products issued by these entities to be admitted to trading status on the ASX AQUA Market and/or for settlement through the mFund Settlement Service as "ETF securities".

"Managed Fund" means a collective investment that is one of the following:

- (a) a managed investment scheme registered under Part 5C.1 of the Corporations Act;
- (b) a managed investment scheme that ASIC has exempted from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act;
- (c) a managed investment scheme registered under Part 4 Subpart 2 of the Financial Markets Conduct Act 2013 (NZ) making a recognised offer of securities (within the meaning of section 1200B of the Corporations Act);
- (d) a CCIV Sub-fund;
- (e) a Notified Foreign Passport Fund; or
- (f) a foreign body which:
  - (i) has the economic features of a CCIV or managed investment scheme, namely:
    - (A) investors contribute money or money's worth to acquire rights to benefits produced by the collective investment;
    - (B) contributions of investors are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for investors holding Financial Products issued in the collective investment; and

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(C) investors holding Financial Products issued in the collective investment do not have day to day control over the operation of the collective investment; and

(ii) is a type of body specified in the Procedures.

Amended 13/05/15, [01/07/22](#)

**Drafting note:** ASX is proposing to extend the definition of “Managed Fund” in rule [7100] to include CCIV sub-funds and NFPFs, and NZ registered managed investment schemes making a “recognised offer” of securities under chapter 8 of the Corporations Act. This will allow financial products issued by these entities to be admitted to trading status on the ASX AQUA Market or for settlement through the mFund Settlement Service as “Managed Fund Products”.

...

**“Notified Foreign Passport Fund”** means a [Notified Foreign Passport Fund under Part 8A.4 of the Corporations Act](#).

[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a definition of “Notified Foreign Passport Fund” in rule [7100]. This is needed to facilitate the admission of financial products issued by NFPFs to trading status on ASX or for settlement through the Managed Fund Settlement Service (mFund).

...

**“Operator”**, in relation to a [Notified Foreign Passport Fund](#), means the entity identified as the operator of the Notified Foreign Passport Fund in the table in [section 56 of the Corporations \(Passport\) Rules 2018](#).

[Introduced 01/07/22](#)

**Drafting note:** ASX is proposing to add a new definition of the term “Operator” in rule [7100]. This new term is needed to facilitate the admission of financial products issued by NFPFs to trading status on ASX or for settlement through the Managed Fund Settlement Service (mFund).

## **Proposed amendments to Schedule 10A of the ASX Operating Rules**

### **SCHEDULE 10A AQUA PRODUCTS AND THE AQUA TRADING MARKET**

Schedule 10A describes, and sets out specifications in respect of, AQUA Products and the trading of those products on ASX's market. AQUA Products are Managed Fund Products, ETF Securities or Structured Products as defined in Rule [7100].

...

#### **10A.2 AQUA PRODUCT ISSUERS**

##### **10A.2.1 Approval of AQUA Product Issuer**

In order to be approved as an AQUA Product Issuer, an applicant for approval as an AQUA Product Issuer must:

...

- (4) if it issues Issuer Market Risk Products must be one of the following:
- (a) an entity, which is prudentially regulated as specified in the Procedures;
  - (b) a government, government body or instrumentality that has a guarantee by the relevant government Treasury authority covering the payments due by the proposed AQUA Product Issuer;
  - (c) an entity which:
    - (i) meets one of the following:
      - (A) it holds an Australian Financial Services Licence;
      - (B) it is a CCIV Sub-fund and the CCIV Corporate Director holds an Australian Financial Services Licence; or
      - (C) it holds an equivalent licence in another jurisdiction which in ASX's opinion makes it subject to adequate supervision of capital standards;
    - (ii) in ASX's opinion has a low long term credit risk;
    - (iii) has net tangible assets which in the opinion of ASX are sufficient to support the proposed issue; and
    - (iv) is acceptable to ASX in its absolute discretion, whose decision will be final;
  - (d) an entity which has a Guarantor which meets the criteria in paragraph (4)(a), (4)(b) or 4(c); or
  - (e) any other person or entity accepted by ASX in its absolute discretion, whose decision will be final.
- (5) if it issues AQUA Products other than Issuer Market Risk Products, be one of the following:
- (a) an entity which meets one of the criteria in paragraph (4) above;

- (b) the responsible entity of a managed investment scheme registered under Part 5C.1 of the Corporations Act;
- (ba) the responsible entity or other operator of a managed investment scheme that ASIC has exempted from the registration requirements in Part 5C.1 of the Corporations Act pursuant to Part 5C.11 of that Act;
- (bb) the manager of a managed investment scheme registered under Part 4 Subpart 2 of the Financial Markets Conduct Act 2013 (NZ) that is not a Notified Foreign Passport Fund;
- (bc) a CCIV Corporate Director;
- (bd) the Operator of a Notified Foreign Passport Fund;
- (be) an entity which is a foreign body which satisfies the criteria in paragraph (a)(vi) of the ETF definition or paragraph (i) of the Managed Fund definition in Rule [7100];
- (c) an entity which is admitted to the Official List of ASX;
- (ca) an entity which proposes to issue an AQUA Product Series of Fully Covered AQUA Products and is acceptable to ASX in its absolute discretion; or
- (d) any other person or entity accepted by ASX in its absolute discretion, whose decision will be final.

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Upon approval as an AQUA Product Issuer, an AQUA Product Issuer must continue to satisfy the above requirements while its approval as an AQUA Product Issuer remains in force and must immediately notify ASX in writing if any of the above requirements is no longer met. The suspension or cessation of an AQUA Product Issuer's approval for any reason does not affect any obligations of an AQUA Product Issuer arising while that approval was in force.

Amended 21/03/14, 13/05/15, 27/06/16, 01/07/22

**Drafting note:** ASX is proposing to amend rule 10A.2.1 in schedule 10A to permit the admission of financial products issued by CCIVs, NFPFs and NZ registered managed investment schemes to trading status on ASX or for settlement through the Managed Fund Settlement Service (mFund).