

# Compliance Briefing for Company Secretaries

ASX Listings Compliance





# Acknowledging Country

ASX acknowledges the Traditional Owners of Country throughout Australia. We pay our respects to Elders past and present.

Artwork by Lee Ann Hall, *My country My People*



# Today's presentation

01 Speculation in the Media

02 Price Query

03 Trading Halts

04 Compliance Focus

05 Questions

# Speculation in the Media: Listing Rule 3.1 and the Exceptions

## ASX Listing Rule 3.1

- 3.1 Once an entity is or becomes +aware of any +information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's +securities, the entity must immediately tell ASX that information.

## Carve-outs (Listing Rule 3.1A)

3.1A Listing Rule 3.1 does not apply to particular +information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following 5 situations applies:

- It would be a breach of a law to disclose the information;
- The information concerns an incomplete proposal or negotiation;
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- The information is generated for the internal management purposes of the entity; or
- The information is a trade secret; and

3.1A.2 the information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 a reasonable person would not expect the information to be disclosed.

# Speculation in the Media: Listing Rule 3.1B

## False Market

A 'false market' refers to a situation where material misinformation or materially incomplete information in the market is compromising proper price discovery.

## ASX Listing Rule 3.1B

### False market

**3.1B** If ASX considers that there is or is likely to be a false market in an entity's \*securities and asks the entity to give it \*information to correct or prevent a false market, the entity must immediately give ASX that information.

Introduced 01/01/03 Amended 01/05/13

Note: The obligation to give information under this rule arises even if the exception under Listing Rule 3.1A applies.

Cross-reference: Listing Rules 3.1, 3.1A, 18.7A; Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1-3.1B*.

# Speculation in the Media: How ASX becomes aware

## ASX Surveillance team

- Dedicated ASX Surveillance team who monitors and identifies abnormal trading on a real time basis.
- ASX Surveillance team does a broad review including:
  - News services
  - Investor forums
  - Chat sites

## ASX Listings Compliance team

- A review of all major state and national newspapers prior to market open each trading day.
- Referrals from ASX Surveillance.

# Speculation in the Media: Action by ASX

- Not every media comment or market rumor will require disclosure.
- Consideration with regards to the materiality and whether the market rumor contains reasonably specific information or quotations.
- Pure speculation from journalists or brokers will unlikely justify a call from ASX.
- Media speculation includes price/parties/project - expect a call.

## Gold small caps court fundies

Roll up roll up, the gold miners are in town. Street Talk understands ASX-listed Pantoro is preparing to hit the road with Canaccord Genuity for a non-deal roadshow. Sources say the \$840 million market cap company is set to woo fund managers in coming days and will be talking up its high-grade resource, production outlook and drilling program.

And Pantoro isn't alone in its self-love tour. ASX-listed Catalyst Metals is understood to have presented to brokers last week as part of a non-deal roadshow.

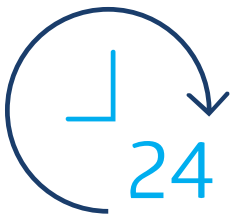
Both names have been on a tear this year as central bank policy and risk-averse investors steer the precious

metal to new heights. Gold fought its way from \$US2050 per ounce in January last year to a peak of \$US2868 on Friday. This growth has put the spotlight on Australian gold miners including smaller explorers, transforming previously overlooked names into ASX must-haves.

Pantoro has climbed from 4¢ to 12¢ in the past year, or a 200 per cent increase. Catalyst Metals has enjoyed an ever better trajectory, shooting from 54c to \$3.97. Perseus Mining-backed Predictive Discovery had its own moment in the sun on Wednesday, announcing that China's Zijin Mining and the Lundin family will acquire 3.5 per cent and 6.5 per cent stakes respectively.

# Speculation in the Media: Call from ASX

- ASX will call the listed contact person provided to ASX under Listing Rule 12.6.
- The nominated ASX contact must be readily contactable by ASX by telephone during normal market hours and for at least one hour either side of the trading day.
- Primary reason for our call is to gather information to determine the course of action.
- We expect the nominated ASX contact to:
  - have organisational knowledge;
  - be able to have meaningful discussions on disclosure matters;
  - have access to senior management; and
  - have the authority to request a trading halt if required.
- Consider having alternate contacts for ASX.



Time Critical



# Speculation in the Media: Course of Action

Materiality Threshold

Speculation is True

The speculation or rumour suggests that it is no longer confidential and therefore Listing Rule 3.1A.2 no longer applies.

**An announcement is likely required.**

Speculation is False

Ongoing speculation or rumour may give rise to a false market.

**An announcement is likely required.**

*Listing Rule 3.1B - If ASX considers that there is or is likely to be a false market in an entity's securities and asks the entity to give it information to correct or prevent a false market, the entity must immediately give ASX that information.*

# Speculation in the Media: NBIO Example

## Media speculation

- Article that details the following:
  - received a takeover offer from a foreign entity (not listed on ASX);
  - cash offer price;
  - entity has appointed advisers (lawyers etc.).

### ASX's action:

- checks entity's platform for announcement;
- passes the materiality threshold;
- contains specific information relating to price and bidder;
- ASX calls the company secretary.

## Company's position

### Company secretary explains:

- non-binding indicative offer;
- all scrip, but price correct;
- entity has appointed advisers;
- actively negotiating.

Company's stance is that the article is not correct because it is not a takeover and because it's a NBIO they do not plan on making an announcement.

## Outcome

Combination of loss of confidentiality and a correction of a false market.

### Announcement will be required :

- to correct the false market; and
- disclose the aspects that are true.

# Speculation in the Media: “Out of the Blue” Example

## Media speculation

- Article that details the following:
  - received a takeover offer from a foreign entity (not listed on ASX);
  - Price disclosed all scrip.

ASX's action:

- checks entity's platform for announcement;
- passes the materiality threshold;
- contains specific information relating to price and bidder;
- ASX calls the company secretary.

## Company's position

Company secretary explains:

- we have received nothing from this company;
- we had discussions with them 18mths ago (which we disclosed) but they've ceased;
- we are totally surprised to read this article.

## Outcome

Announcement required to correct a false market.



# Speculation in the Media: Takeaways

## Main takeaways

- Please be available 1 hour before the market opens and please pick up your phone.
- Provide ASX with a list of contacts to call if we cannot reach you.
- If you are actively negotiating, have announcements drafted and prepared in case information leaks.
- Remind your board of Listing Rule 3.1B and ASX's power to require information to correct a false market.
- When responding to media speculation, the announcement must be at least as specific as the media report.
- If an announcement is unable to be made prior to market open, a trading halt may be required.

## ASX Listing Rule 3.1B

If ASX considers that there is or is likely to be a false market in an entity's securities and asks the entity to give it information to correct or prevent a false market, the entity must immediately give ASX that information

## ASX Listing Rule 3.1A.2

This exception applies while the information is confidential and ASX has not formed the view that the information has ceased to be confidential.

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# Price Query: Who/What/When/Why?

## Who monitors and decides to issue a price query?

ASX Surveillance monitors real time trading and recommends a price query to Listings Compliance.



## What is a price query?

A call followed by a formal letter from ASX that requires an entity to respond within a 2 hour window confirming whether the entity is aware of any reasons that could explain the change in price and volume of the entity's securities.

## When do we issue a price query?

When there is an unexplained and significant change in the price and/or volume traded of an entity's securities.

## Why do we issue?

To comply with our license obligations to ensure that the market is fair, orderly and transparent.



# Price Query: ASX Surveillance

## ASX Surveillance

- Monitor trading in ASX quoted securities on a real time basis.
- Seeking to identify abnormal trading that cannot be explained by announcements the entity has made.
- As part of their investigation ASX Surveillance takes into account:
  - American, Asian and European markets
  - Movement of peers
  - Commodity prices
  - Political changes
  - Changes in government policy
- ASX Surveillance also reviews various news services, investor forums, chat sites and social media.

# Price Query: Alert for abnormal price/volume change



# Price Query: Listings Compliance Action

## 1. Receive a call from ASX Surveillance:

- Details of the price/volume change
- Market rumours
- Disclosure risks

## 2. Immediately call the entity:

- Are you aware of any reason that could explain the change in price and volume traded?
- Is the entity in compliance with Listing Rule 3.1?

*Depending on the response to these question we will take different actions*

## 3. Issue formal price query letter



# Price Query: How to respond

If there are any disclosure risks or market rumours we will also raise these with you. For example if drilling results are expected then we will raise this with you.

## Possible responses

*Are you aware of any reason that could explain the change in price/volume?*

**No, we know nothing**

Issue price query letter

**No, but I need to speak to the directors**

Call ASX back once you have spoken to the directors  
Issue price query letter

**Yes, but we are relying on 3.1A ...**

Trading halt  
Issue price query letter

**Yes, we are preparing a material announcement**

Trading halt  
Issue price query letter

**Can't get through?  
We will keep calling, but eventually may have to suspend.**

# Price Query: Listing Rule 3.1A and Price Queries

## Listing Rule 3.1A

3.1A Listing Rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following 5 situations applies:

- It would be a breach of a law to disclose the information;
- The information concerns an incomplete proposal or negotiation;
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- The information is generated for the internal management purposes of the entity; or
- The information is a trade secret; and

3.1A.2 the information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 a reasonable person would not expect the information to be disclosed.

## Price Query Letter

Question 2(a) Is the entity relying on Listing Rule 3.1A not to announce that information under Listing Rule 3.1? Please note that the recent trading in the entity's securities would suggest to ASX that such information may have ceased to be confidential and therefore the entity may no longer be able to rely on Listing Rule 3.1A.

Accordingly, if the answer to this question is "yes", you need to contact us immediately to discuss the situation.

# Price Query: Formal Letter

## Formal Letter

- We will issue you a formal query letter via email in all circumstances within 30 minutes of our call.
- It is a standard letter.
- If the entity is:
  - still trading - the response to our formal query letter is required within 2 hours.
  - in a trading halt - the response should be provided at the time the halt is lifted.
- The response will always be released on the platform.



Price Query  
Letter

# Price Query: Takeaways

## Main takeaways

- Please pick up your phone.
- Provide ASX a list of contacts to call if we cannot reach you.
- Please be open with us on the call.
- If the situation changes, please call us back.
- If you are actively negotiating, have a plan for if you receive a price query.
- If your response confirms you don't know anything and you make a material announcement soon afterwards, we are likely to ask questions and you might get an 'aware' letter.
- Expectation that entities are monitoring significant price/volume changes, particularly when relying on the disclosure carve-outs.

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# Trading Halts: General Principles

## General Principles

- Trading interruptions should be kept to a minimum.
- Trading halts are not automatically granted.
- ASX needs to be satisfied that the circumstances justify an interruption to trading.

## Trading Halts

- Trading halt is appropriate where:
  - trading might occur while the market is not reasonably informed and/or could be a false market; or
  - it is otherwise reasonably required by a listed entity to manage its continuous disclosure obligations.
- Trading halts are for situations where you have a disclosure obligation but you are not yet in a position to make an announcement.
- An entity must address all aspects of Listing Rule 17.1 in their trading halt request.
- Trading halt request can only be granted for 2 days (except if undertaking an accelerated capital raising).

# Trading Halts: How to Request a Trading Halt?

## How to Request a Trading Halt

- The letter requesting a trading halt should be sent by email to the general trading halt email address:
  - Sydney home branch: [tradinghaltssydney@asx.com.au](mailto:tradinghaltssydney@asx.com.au)
  - Melbourne home branch: [tradinghaltsmelbourne@asx.com.au](mailto:tradinghaltsmelbourne@asx.com.au)
  - Perth home branch: [tradinghaltspertth@asx.com.au](mailto:tradinghaltspertth@asx.com.au)
- Letter must be in PDF and address all aspects of Listing Rule 17.1.
- If you are requesting a halt:
  - prior to market, please email the request through.
  - during market hours call first then follow up with an email.
- ASX will respond to you once the trading halt has been actioned.
- It is the entity's obligation to ensure ASX receives the request.

# Trading Halts: The Reason for the Trading Halt?

## The reason for the halt

- Please be specific regarding the reason, if you state 'material transaction' we will follow up.
- The reason must be appropriate to warrant the halt.
- Please be prepared to answer questions on the reason for the request.

Circumstances we are unlikely to grant a halt:

- Primary reason is to preserve your share price.
- For an event that has not yet occurred or because things are currently uncertain.
- Entity is in a position to make an announcement about the current status such that trading can continue.
- Takeover announced - automatic 60 minute halt imposed under our Operating Rules. No further halt granted.
- Non-material changes to the listed entity.

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# Compliance Focus: Listed@ASX

- Recent matters to be aware of:
  - Cyber incident example added to Guidance Note 8.
  - Consolidated list of long-term suspended entities released quarterly on announcements platform.
- Listed@ASX Compliance Update is the avenue where Listings Compliance will flag current focus areas and upcoming spot checks.
- Enforcement “blitzes” (e.g. earnings surprises, investor presentations).
- Listed@ASX Compliance Updates specifically relating to JORC issues:
  - Balanced reporting – 18 February 2025
  - Metal equivalents – 18 February 2025
  - Investor presentations – 25 July 2024
  - Visual results – 21 April 2023
- Please subscribe.

# Compliance Focus: Naming counterparties to market sensitive contracts

- Released on 5 March 2025 in the Listed@ASX number 2/2025.
- Broadens the circumstances where ASX may accept the identify of the counterparty is not market sensitive and therefore does not need to be released outside the examples of defence/security and government agencies.
- If counterparty not named, the announcement about a market sensitive contract must:
  1. confirm the entity does not consider the identity of the counterparty/customer to be information that a reasonable person would expect to have a material effect on the price or value of the entity's securities;
  2. confirm that the announcement contains all material information relevant to assessing the impact of the contract on the price or value of the entity's securities, and is not misleading by omission;
  3. include a description of the counterparty/customer that is sufficient to describe any market sensitive information about the counterparty/customer, including its standing and creditworthiness.
- Please remember:
  - ASX expects that an entity would use all reasonable endeavours to obtain consent to name the counterparty/customer in an announcement, and that consent will have been refused, before the entity would elect not to disclose their identity.
  - Failure to disclose the identity of the counterparty/customer may attract speculation that could result in a false market.



# Compliance Focus: Current initiatives

## Current initiatives

- Planning to publish guidelines on how to consolidate classes of securities issued under employee incentive schemes.
- Proposed consultation on how our Listing Rules interact with employee incentive schemes.

## Reminders

- Entities are required to give information to ASX first under Listing Rule 15.7 – do not give to the media on an embargoed basis.
- Listing Rules continue to apply even if an entity's securities are suspended or in a trading halt, this includes required disclosures being made under Listing Rule 3.1.
- ASX does not require the 'glossy' version of your notice of meeting to do our review. We will accept the word version as long as the content is final.



# Questions

Thank you.