

# Listed@ASX Compliance Update no. 06/23

16 August 2023

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## 1. Half yearly, preliminary final and change of balance date announcements: order of announcements and early release of announcements during reporting periods

A reminder that when releasing an Appendix 4D/4E/4F and associated documents, the order in which the documents should be released is:

1. The relevant Appendix and any others documents required to be given to ASX under ASX Listing Rules 4.2A, 4.3A or 4.4A (as applicable).
2. Dividend/distribution online form (if and when applicable).
3. Any other material, for example, media releases and investor or analyst presentations.

Regardless of the order in which the documents are lodged with ASX, ASX will release the Appendix 4D/4E/4F to the market first and other documents in the order set out above.

For further guidance, please refer to section 15 of [ASX Listing Rule Guidance Note 14](#).

Listed entities are also reminded that during Appendix 4D and 4E reporting periods, they can request early release arrangements for their financial reports if they have special requirements around the timing of the release of these announcements.

The request must be made by email to [ASX Market Announcements](#). Please note that release under these arrangements is on a best endeavours basis.

## 2. Allow enough time for ASX to review your draft notice of AGM

Almost 90% of listed entities have a balance date of 30 June and therefore would ordinarily have to hold their AGMs by 30 November each year.

Under Listing Rule 15.1.7, draft notices of general meeting that contain Listing Rule resolutions must be submitted to ASX for review before they are sent to security holders. Listing Rule 15.1 provides that ASX may take 5 business days to advise whether it objects to a draft document and may extend that deadline if it needs further time to review the document.

ASX asks listed entities to bear these timing requirements in mind and allow sufficient time when they submit their draft notices of meeting for ASX to review. This is particularly important if there are a number of resolutions or complex transactions to be considered. If you will require waivers from any Listing Rules in connection with your notice of AGM, additional time should be allowed to obtain the waiver as the 5 business day period referred to above does not include the time needed to obtain a waiver. ASX Guidance Note 17 sets out the usual timeframes for ASX to process standard and non-standard waivers.

## 3. Annual listing fees FY2024 reminder

Listed entities are reminded that annual listing fees for FY2024 were due on 31 July 2023.

If payment is not received in full by 5.00pm AEST Monday 21 August 2023, ASX will suspend trading in the entity's securities before trading commences on Tuesday 22 August 2023 in accordance with Listing Rule 17.6. ASX will not waive this rule.

Further, should payment still remain outstanding by 5.00pm AEST on Monday 28 August 2023, ASX will remove the entity from the official list that day under Listing Rule 17.15. ASX will not waive this rule.

For queries on how the fee was calculated please refer to [ASX Guidance Note 15](#) paragraph 2.4. For queries in relation to the suspension and delisting process please contact your Listings Adviser. For all other enquiries please contact ASX Accounts Receivable via the email address [accounts.receiveable@asx.com.au](mailto:accounts.receiveable@asx.com.au)

#### **4. Security purchase plan waivers**

Entities conducting a security purchase plan (“SPP”) need to seek security holder approval under Listing Rule 7.1 before they issue securities under the plan, unless the securities can be issued using the entity’s 15% placement capacity or Listing Rule 7.2 Exception 5 applies.

If an entity needs to seek security holder approval for an SPP, Listing Rule 7.3.9 in effect requires the entity to exclude the votes of any security holder who may participate in the SPP. As this could have the effect of excluding most security holders from voting, ASX has been prepared to grant a waiver from Listing Rule 7.3.9 if an entity does not know who will participate in the SPP at the time when security holder approval is sought.

However, ASX will not grant a waiver of Listing Rule 7.3.9 if the SPP offer will close before the date of the meeting. This is because the identity of the SPP participants will be known at the date of the meeting and their votes can readily be determined and excluded by the entity.

ASX Guidance Note 17 explains when ASX will grant a standard waiver from Listing Rule 7.3.9 and Listing Rule 10.11 in relation to SPP offers that fall outside of Listing Rule 7.2 Exception 5. For this standard waiver to be available, the offer must satisfy the conditions in *ASIC Corporations (Share and Interest Purchase Plans) Instrument 19/547* (“ASIC Instrument”) and the other terms of the standard waiver set out in ASX Guidance Note 17.

Some recent SPP offers have included an offer of free attaching options, which adds an additional level of complexity to an SPP offer. ASX understands that entities that offer free attaching options may not be able to rely on the ASIC Instrument in relation to the offer. In these circumstances, ASX is unlikely to grant a waiver from Listing Rule 10.11, given the added complexity involved.

#### **5. Reminder: Appendix 7A Timetables**

ASX notes that the corporate action timetables for bonus issues and standard pro rata issues referred to in Appendix 7A require a number of steps to be completed by the entity prior to the commencement of trading on Day 0. Similarly, for accelerated entitlement offers, Appendix 7A requires the entity to request a trading halt prior to the commencement of trading on Day 0, and to complete certain steps prior to noon (Sydney time) on Day 0.

Recently, ASX has noted that a number of listed entities have not completed all of the necessary steps required before the timetable deadline on Day 0. Failure to do so inevitably results in delay to the completion of the corporate action and supplementary disclosure to the market about revisions to the initial timetable.

Failure to comply with the Day 0 time limits is usually due to the entity not lodging the Appendix 3B on time. If an entity attempts to lodge an online Appendix 3B after the cut-off time it will receive an error message that will prevent it from completing lodgement until the timetable has been revised. If the entity attempts to lodge an MS Word version of the form it will be rejected prior to release.

A separate unstructured announcement disclosing details of a proposed issue of securities does not satisfy the entity’s obligation under Listing Rule 3.10.3 to immediately notify ASX of a proposed issue of securities.

ASX also notes that if an entity wishes to extend the closing date for a pro rata issue or accelerated entitlement offer, it must provide notice no later than noon (Sydney time) 3 business days before the close of the offer.

Please adhere to these time limits in order to avoid possible delay and inconvenience.

#### **6. Emails circulating regarding membership or maintenance of an entity’s ISIN**

A number of listed entities have reported receiving invoices relating to membership or maintenance of International Securities Identification Numbers (ISINs) from third party organisations. ASX warns that these communications are not legitimate.

Please be advised that ASX is the National Numbering Agency (NNA) for the allocation of ISINs in Australia and ASX allocates ISINs for the securities of Australian issuers that are listed on ASX, debt securities issued in Austraclear, CHESS Depository Interests (CDI) and CHESS eligible securities of Australian issuers that are listed on other Australian financial markets. ASX has appointed APIR Systems Limited to allocate ISINs on its behalf for Australian unlisted collective investment products (including mFund). ASX reports all Australian ISINs to the Association of National Numbering Agencies (ANNA) for the official registration of ISINs which is then made available worldwide in accordance with the global standards.

ANNA, ASX and APIR Systems Limited have no dealings or affiliation with any third party offering commercial services for assisting to obtain or maintain ISINs in their database. Any threats from these third party organisations to take any adverse action in relation to an entity's ISIN are not authorised or endorsed by ASX. Only ASX (and APIR systems on behalf of ASX) are authorised to allocate Australian ISINs or report them to ANNA for official registration.

## 7. Upcoming deadlines for periodic reports

Listed entities are reminded of upcoming deadlines for periodic reports:

- Preliminary final reports (June year-end) – Thursday 31 August 2023
- Statutory half year financial reports (except mining exploration entities) (December year-end) – Thursday 31 August 2023
- Statutory half year financial reports for mining exploration entities (December year-end) – Wednesday 13 September 2023
- Statutory audited annual accounts (June year-end) – Friday 29 September 2023
- Annual reports (June year-end) – Tuesday 31 October 2023 for listed companies and Friday 29 September for listed registered schemes
- Quarterly Reports for Mining and Commitments Test Entities – Tuesday 31 October 2023
- An investment entity must also notify the NTA of quoted securities within 14 days of the end of each month
- An entity that has a dual listing and has CDIs issued over quoted securities must also lodge an Appendix 4A within 5 business days of the end of each month

Listed entities are also reminded that a failure to lodge the relevant documents on time (i.e. by close of the ASX Market Announcements Office on the due date) will result in an automatic suspension of the entity's securities under Listing Rule 17.5.

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