

# Listed@ASX Compliance Update no. 08/25

22 July 2025

## 1. Disclosure of waivers on the market announcements platform by listed entities

### **Overview**

- ASX will require a listed entity that is granted a waiver to disclose the nature and effect of the waiver and the entity's reasons for seeking the waiver within one business day of ASX communicating to the entity that the waiver has been granted, except when the waiver relates to a confidential and incomplete proposal or negotiation.
- If the waiver relates to a confidential and incomplete proposal or negotiation, disclosure must be made when the matter ceases to be confidential or incomplete. The intention is to ensure that the waiver is disclosed no later than when the underlying proposal or deal is announced.
- To support the new practice, waiver applicants will need to submit to ASX a draft statement for release to the market that outlines the nature and effect of the waiver and the entity's reasons for seeking the waiver when they make a waiver application. If the waiver is granted, the entity will be required to release the statement on the market announcements platform, either as a standalone announcement or as part of a related announcement.

### ***ASX's current process for publication and disclosure of waivers***

Listing Rule 18.1 provides that ASX will publish its waivers periodically. The publication of waivers facilitates the transparency of decisions made by ASX.

Details of waivers granted are usually published on the ASX website twice monthly in the form of a waivers register. The waivers register includes the name of the entity which received the waiver, the terms and conditions of the waiver and brief reasons why it was granted. There is typically a period of approximately 5 to 8 weeks between when a waiver is granted and when it is published in the waivers register by ASX.

In addition, ASX may require as a condition of a waiver that the applicant must itself disclose that it has been granted a waiver and the terms and conditions of the waiver. This requirement is currently applied to some but not all waivers.

### ***New approach to disclosure of waivers by listed entities***

ASX will standardise its approach so that listed entities will be required to disclose the nature and effect of any waiver that has been granted to them and their reasons for seeking the waiver as a normal condition of a waiver. This disclosure must ordinarily be made within one business day of ASX communicating to the entity that the waiver has been granted.

This will ensure that the market is kept informed about waivers in a timely way in the period between when a waiver is granted by ASX and when it is published in the waivers register. It will also provide context to the market about why the entity sought the waiver.

ASX will start systematically applying this new condition to waivers granted from September 2025 onwards and may apply this condition to waivers granted before then on a case-by-case basis.

Waivers that are granted to listing applicants prior to their admission to the official list will continue to be confirmed by the entity in its pre-quotation disclosure.

### ***Confidential and incomplete proposal or negotiation***

ASX recognises that a listed entity can be prejudiced if it is required to disclose a confidential and incomplete proposal or negotiation.

Entities who have received a waiver in relation to a confidential and incomplete proposal or negotiation will not be required to disclose the waiver until the matter ceases to be confidential or incomplete. The intention is to ensure that the waiver is disclosed no later than when the underlying proposal or deal is announced.

All waivers will still be published by ASX in the waivers register in the ordinary course, regardless of whether the matter has ceased to be confidential or incomplete.

If the timing of publication of the waiver by ASX in the waivers register is a cause for concern, an applicant for a waiver should consider seeking in-principle advice in the first instance and then making a formal application for the waiver at a more appropriate time.

### ***Consequential changes for waiver applications and Guidance Note 17***

To support this new practice, waiver applicants will need to provide ASX with a copy of their draft statement for release to the market setting out the nature and effect of the waiver and the reasons for seeking it when they submit their waiver application to ASX. All new standard and non-standard waiver applications from 11 August 2025 should include this draft disclosure.

The disclosure should be in the form of a draft statement for release to the market that outlines the nature and effect of the waiver and the entity's reasons for seeking the waiver. Successful waiver applicants will be required to release this statement to the market within the timeframes stated above. The statement may be released as a standalone announcement or as part of an announcement about the matter to which the waiver relates.

Guidance Note 17 will be amended to reflect these changes, along with some other minor self-explanatory updates. A mark-up comparing the updated Guidance Note to the current version is available [here](#).

The updated Guidance Note will take effect from 11 August 2025. The Guidance Note will be able to be accessed via ASX Online and on the ASX Listing Rules page on the ASX website.

## **2. Continuous disclosure – focus on earnings surprises in August**

Over the last few reporting seasons, ASX has had a focus on market sensitive earnings surprises.

As a reminder, if an entity becomes aware that its earnings for the current reporting period will differ materially (upwards or downwards) from market expectations, it needs to consider carefully whether it has a legal obligation to notify the market of that fact. This obligation may arise under Listing Rule 3.1 and section 674 of the Corporations Act if the difference is of such a magnitude that a reasonable person would expect it to have a material effect on the price or value of the entity's securities – ASX refers to this as a 'market sensitive earnings surprise'.

Section 7.3 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1-3.1B* deals with market sensitive earnings surprises, including the following topics:

- How does an entity determine what the market is expecting its earnings for the current reporting season to be?
- How does an entity translate sell-side analyst forecasts into an estimate of the market's expectations for its earnings?
- How large does an earnings surprise have to be to trigger a disclosure obligation?
- What guidance can ASX give on when an earnings surprise should be disclosed?
- When does an entity become aware of a market sensitive earnings surprise?
- What should be included in an announcement about a market sensitive earnings surprise?
- When should an announcement be made about a market sensitive earnings surprise?

Listed entities are encouraged to review this guidance ahead of the upcoming reporting season.

During August this year, ASX will have a focus on entities in the S&P/ASX 200 whose security price moves by 10% or more following the release of their results. Absent other factors that readily explain the price movement, ASX will likely send an aware letter to the entity to give it an opportunity to explain what it did to manage its continuous disclosure obligations in the lead up to the announcement of its results.

The purpose of the aware letter is to establish how the entity determined what the market's expectations were, whether the entity considered that its earnings materially varied from, or were in line with, market expectations, and the date when it became aware of this with a reasonable degree of certainty. The letter also asks if the entity can provide any other explanation for the trading in its securities following its results announcement.

Based on experience from prior periods, ASX makes the following observations:

- ASX considers the closing price on the day of the results release (or the next trading day if the results are released after market close) when determining whether to send an aware letter;
- ASX expects an entity to be specific about dates and times when responding to an aware letter;

- ASX does not generally consider it appropriate for entities to provide information about the expectations of analysts in current or future periods in their response to an aware letter, and may ask for that information to be removed if it is included; and
- where an entity indicates in its response to an aware letter that, prior to the announcement of its results, it was aware of a material difference (having regard to the thresholds set out in Guidance Note 8) between its earnings expectations and the market's expectations but considered that the difference did not constitute a market sensitive earnings surprise, ASX expects the entity to explain the basis of that view in its response.

ASX appreciates that forecasting earnings with an appropriate degree of confidence, assessing market expectations and predicting how the market will react if earnings differ materially from expectations involves many variables and requires considerable judgement. ASX is mindful of this when it considers whether it should refer a potential breach of Listing Rule 3.1 involving a market sensitive earnings surprise to ASIC.

### **3. Trades conducted during the new Post Close trading session included in ASX's VWAP definition**

On 23 June 2025, several changes were made to the opening and closing of trading on ASX's cash equities market. These changes included the removal of the opening auction stagger and the introduction of a Post Close trading session. A summary of the changes is available [here](#), and also an [FAQ](#).

A number of Listing Rules refer to 'volume weighted average market price' (VWAP) which is defined in Chapter 19. ASX confirms that as Post Close trades occur during trading hours, any trades conducted during the Post Close trading session are included in the calculation of VWAP under the Listing Rules.

### **4. Please ensure correct URLs are used in the Appendix 4G**

When a listed entity lodges its annual report, it must also lodge an Appendix 4G and its corporate governance statement at the same time. Where the corporate governance statement is not contained in the annual report, the Appendix 4G must include the URL address of the location on the listed entity's website where the corporate governance statement can be found.

ASX has encountered several instances of broken or incorrect URLs in the Appendix 4G. Please ensure that the link provided in the Appendix 4G is active and also links to the correct document.

### **5. Investor presentations**

In Listed@ASX Compliance Update 09/24, ASX provided a summary of some of the key issues to be aware of when preparing investor presentations. This information remains current and can be accessed [here](#). Listed entities are encouraged to review this information before preparing investor presentations for upcoming conferences, results briefings and AGMs.

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Listed entities are reminded that they must have a nominated person responsible for communication with ASX in relation to Listing Rule matters (Listing Rule 12.6).

Entities should keep the contact details of their nominated ASX contacts up to date on ASX Online at all times and also inform their Listings Adviser of any changes. Further information about how to notify ASX of any changes (including temporary changes) made to the entity's nominated ASX contact is available [here](#) (see Item 3).

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*If you missed any of our historical Compliance Updates, or would like further resources to help understand the ASX Listing Rules, please visit our educational resources for listed entities page [here](#).*

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