**CHECKLIST FOR CONSTITUTIONS OF ASX LISTED ENTITIES**

*The purpose of the checklist is to assist:*

* *an entity applying for an ASX Listing to comply with its obligations under Listing Rule 1.1 Condition 2 to have a constitution that is consistent with the ASX Listing Rules; and*
* *a listed entity to comply with its obligation under Listing Rule 15.11 to ensure that any amendments to its constitution are consistent with the ASX Listing Rules.*

*It is also to assist ASX in reviewing such documents in a timely manner.*

*This checklist must be completed by an entity which has not included the provisions of Appendix 15A (in the case of an entity which is not a company to which any replaceable rules apply) or Appendix 15B (in the case of an entity which is a company to which any replaceable rules apply) in its constitution. It must be provided to ASX at the time that the entity provides its constitution, or an amendment to its constitution, to ASX for review.*

| **ASX Listing Rule / ASX Settlement Rule Reference** | **Applies to Company** | **Applies to Trust** | **Description** | **Indicate Location in Constitution1** |
| --- | --- | --- | --- | --- |
| 1.1 Condition 2, 15.11 | ✓ | ✓ | Constitution to be consistent with the Listing Rules (this assumes that the constitution does not contain the provisions in Appendix 15A or 15B, as applicable) |  |
| 2.1 Condition 1, 2.5 Condition 1, 6.1 | ✓ | ✓ | Requirements for securities to be quoted |  |
| 2.1 Condition 3 | ✓ | ✓ | Satisfaction of requirements for securities to be CHESS approved |  |
| 3.13 | ✓ | ✓ | Information to be given to ASX about meetings |  |
| 3.17.1, 15.2.1, 15.2.2 | ✓ | ✓ | Copies of all documents sent to security holders to be given to ASX |  |
| 3.19 | ✓ | ✓ | Disclosure about specified ownership limits |  |
| 6.2 | ✓ | ✓ | Entity to have only one class of ordinary securities |  |
| 6.3, 6.4 | ✓ | ✓ | Voting rights of preference security holders |  |
| 6.5 | ✓ | ✓ | Dividend or distribution rights of preference security holders |  |
| 6.6 | ✓ | ✓ | Rights of preference security holders to participate in a return of capital or funds |  |
| 6.7 | ✓ | ✓ | Rights of preference security holders about notices, reports, accounts and meetings |  |
| 6.8 | ✓ | ✓ Note exception for registered schemes | Voting rights - on a show of hands |  |
| 6.9 | ✓ | ✓ Note exception for registered schemes | Voting rights - on a poll  *Note: Waivers are usually granted to trusts which are not registered schemes in circumstances where the Corporations Law does not permit proxy voting* |  |
| 6.102 | ✓ | ✓ | Removal or change to voting and dividend or distribution rights of security holders |  |
| 6.113 | ✓ | ✓ | Proportion of dividends (except for NL company), distributions, and issues of bonus securities for partly paid securities. Amounts paid in advance of call ignored |  |
| 6.122, ASXSR 5.12 | ✓ | ✓ | Restricted use of divestment and disenfranchisement provisions in constitutions CHESS holdings - requirements for notices of divestment |  |
| 6.133, ASXSR 8.15 | ✓ | ✓ | Lien on securities, distributions and dividends restricted to unpaid calls and instalments, amounts owed under employee incentive schemes, and amounts payable by law. Holding lock - liens |  |
| 6.24, Appendix 6A, ASXSR 5.22.1 | ✓ | ✓ | Timetables - dividends and distributions, interest on debt securities, calls, conversion or expiry of convertible securities  *Note: Waivers are usually granted to trusts relating to announcements of distributions because, for tax reasons, they may only be able to give an estimate of the distribution* |  |
| Appendix 6A para 3.2 | ✓ | X | Requirements of call notices for NL companies |  |
| Appendix 6A para 4.2 | ✓ | ✓ | Requirements of call notices for entities other than NL companies |  |
| 7.1 | ✓ | ✓ | Restriction on issues of securities |  |
| 7.24 | ✓ | X | Reorganisations of issued capital - partly paid shares |  |
| 7.26.24 | ✓ | X | Cancellation of forfeited partly paid shares by limited liability company – holder must remain liable for unpaid amounts unless holders of ordinary shares approve otherwise |  |
| 7.40, Appendix 7A, ASXSR 5.22.1 | ✓ | ✓ | Timetables - bonus issues, pro rata issues, reorganisation of capital etc |  |
| 8.1 ASXSR 1.2 | ✓ | ✓ | Compliance with ASX Settlement Rules |  |
| 8.3 | ✓ | ✓ | CHESS approved securities - issuer sponsored subregister |  |
| 8.5, 8.6, 8.7 | ✓ | ✓ | Statement requirements for holders on issuer sponsored subregister |  |
| 8.10 ASXSR 5.8.1 | ✓ | ✓ | No interference with registration of paper-based transfers or generation of proper ASX Settlement transfer |  |
| 8.11 | ✓ | ✓ | Prohibition on use of pre-registration statutory declarations |  |
| 8.12 | ✓ | ✓ | Reservation of securities for takeover offeror |  |
| 8.14 | ✓ | ✓ | Registration of transfers and issue of certificates etc. without charge |  |
| 8.17 | ✓ | ✓ | Registry offices to remain open |  |
| 8.21, Appendix 8A, ASXSR 5.22.1 | ✓ | ✓ | Time limits - sending certificates, marking of transfer forms, conversions between subregisters. |  |
| Appendix 8A | ✓ | ✓ | CHESS approved securities - conversion from certificated to issuer sponsored subregister |  |
| 10.11 | ✓ | ✓ | Participation of related parties in new issues |  |
| 10.17 | ✓ | X | Payments to directors of a company. Increase of fees subject to approval (including notice requirements) |  |
| 10.18, 10.19 | ✓ | ✓ | Termination benefits |  |
| 11.2 | ✓ | ✓ | Disposal of main undertaking requires approval of holders of ordinary securities |  |
| 14.2 | ✓ | ✓ | Requirements for proxy forms |  |
| 14.32 | ✓ | X | Time for acceptance of nominations for elections of directors of companies |  |
| 14.4 | ✓ | X | Limit on directors of companies holding office including those appointed to fill casual vacancy and managing directors where more than one |  |
| 14.5 | ✓ | X | Election of directors of companies each year |  |
| 15.10 | ✓ | ✓ | Documents for overseas security holders to be sent by air or fax |  |
| 15.12.15 | ✓ | ✓ | Prohibition on disposal of restricted securities during escrow period |  |
| 15.12.25 | ✓ | ✓ | Restricted securities in a quoted class to be kept on issuer sponsored subregister and to have a holding lock applied |  |
| 15.12.35 | ✓ | ✓ | Entity must refuse to acknowledge a disposal of restricted securities during the escrow period |  |
| 15.12.45 | ✓ | ✓ | Holder of restricted securities not entitled to a return of capital during the escrow period |  |
| 15.12.55 | ✓ | ✓ | Dividend, distribution and voting rights to end if breach of restriction deed or constitution |  |
| 15.133, 15.13A,15.13B, ASXSR 5.12 | ✓ | ✓ | Restriction on provisions for sale of security holdings of less than a marketable parcel. Requirements for notices of divestment |  |
| 15.143 | X | ✓ | Prohibition on sanctions or penalties in trust constitution to enforce provisions relating to acquisitions of units above a limit or substantial shareholdings |  |
| 15.153 | ✓ | X | Foreign companies - prohibition on sanctions or penalties to enforce provisions relating to takeovers or substantial shareholdings |  |
| ASXSR definitions of "Record Date" and "End of Day" | ✓ | ✓ | Record date |  |
| ASXSR 8.6.1 | ✓ | ✓ | CHESS subregister forms part of principal register |  |
| ASXSR 8.10.12 | ✓ | ✓ | CHESS holdings - maximum 3 joint holders |  |
| ASXSR 8.10.22 | ✓ | ✓ | Restricted ability to establish holdings of less than a marketable parcel |  |
| ASXSR 8.10.3 | ✓ | ✓ | Recognition of equitable interests |  |
| ASXSR 8.12.1 | ✓ | ✓ | Registration date |  |
| ASXSR 8.13.1, 5.4.4 | ✓ | ✓ | Subregisters to remain open |  |
| ASXSR 9.8.4 | ✓ | ✓ | Certain documents to be received by issuers |  |
| ASXSR 5.10 | ✓ | ✓ | Non-issue of certificates |  |
| ASXSR 5.21.1 | ✓ | ✓ | Nil paid rights record |  |
| ASXSR 14.17 | ✓ | ✓ | Completion of takeover transfers |  |

*Notes:*

1 *If the specific rule is not covered by the constitution, please indicate that there is no specific reference by inserting “N/A”.*

2 *These rules lay down certain general requirements but provide that an entity’s constitution may make specific provision to the contrary. These items should only be marked “N/A” if the constitution does not make any such provision to the contrary.*

3 *These rules prohibit certain provisions being included in an entity’s constitution. These items should only be marked “N/A” if the constitution does not include any such provision.*

4 *This rule requires specific provisions to be included in an entity’s constitution. This item must not be marked “N/A”.*

5 *These rules require specific provisions to be included in an entity’s constitution for so long as it has restricted securities on issue. These items must only be marked “N/A” if the entity does not have, and does not intend to have, restricted securities on issue.*

*This document is intended to provide only a general guide to listing rule requirements. It may not cover every aspect of the Listing Rules that is relevant to a particular entity. Further, it may not be updated following every amendment made to the Listing Rules.*

*No responsibility for the results of any actions taken on the basis of this document is accepted by ASX, its subsidiaries, or employees of ASX or its subsidiaries (whether through negligence or otherwise).*

*Entities should seek independent legal advice in respect of their obligations under the Listing Rules.*

*Fees are payable for the review of a listing application or of amendments to a listed entity’s constitution in accordance with listing rule 16.7 and Guidance Note 15 ASX Listing Fees.*

*For further information contact the ASX Listings Department in:*

|  |  |
| --- | --- |
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