

Your ref
Our ref

PO Box 379 Subiaco WA 6904 Australia
T +61 422 421 223
www.bonomelli-legal.com.au

1 March 2019

By email

ASX Limited
PO Box H224
Australia Square NSW 1215
Email mavis.tax@asx.com.au

Dear Ms Tan

Submission on the public consultation "Simplifying, clarifying and enhancing the integrity and efficiency of the ASX Listing Rules", November 2018

Thank you for the opportunity to provide submissions in response to the consultation paper released by the ASX entitled "Simplifying, clarifying and enhancing the integrity and efficiency of the ASX Listing Rules" on 28 November 2018 (**Consultation Paper**).

We have made submissions on one matter raised in the Consultation Paper, which we think will cause unintended consequences if adopted. In relation to the other matters raised in the Consultation Paper, we generally support the amendments being proposed by ASX.

ASX is proposing a new Listing Rule 2.8.3, which will introduce a time limit of 5 business days to apply for quotation of securities issued upon conversion of unquoted convertible securities into a class of quoted securities. We do not support the proposed 5 business day time limit and submit that the time limit should be 10 business days.

Listed companies frequently issue convertible securities without disclosure to investors under Chapter 6D of the Corporations Act 2001 (Cth) (**Corporations Act**) in circumstances where the offer can be made in reliance on an exemption in section 708 of the Corporations Act (e.g. because the recipient is a person associated with the listed company, or a sophisticated or professional investor).

The consequence of this for listed companies is that when the convertible securities that have been issued without disclosure are converted, the listed company is required to publish a 'cleansing notice' under section 708A(5) of the Corporations Act, or prepare and lodge with the Australian Securities and Investments Commission a 'cleansing prospectus' under section 708A(11) of the Corporations Act if they are unable to publish a cleansing notice. Inability to publish a cleansing notice will often be because the listed company has been suspended for more than 5 days in the previous 12 month period. Both publication of a cleansing notice and preparation and lodgement of a cleansing prospectus require the listed company to conduct due diligence to ensure the accuracy of the notice or prospectus, as the case may be.

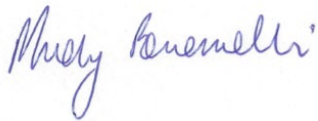
A listed company needs to be afforded sufficient time to manage the publication of a cleansing notice or prepare and lodge a cleansing prospectus if required. In our view, 5 business days will not give listed companies sufficient time to do this in all cases. If listed companies are faced with this limited time period to issue securities upon conversion of convertible securities (noting that the timing of conversion is generally not known by the listed company and not within the company's control) there is a risk that the quality of disclosure and rigour of process in connection with both cleansing notices and cleansing prospectuses will be affected as a consequence of having to comply with the Listing Rule requirements for quotation.

We agree that there is value in the market being informed of an increase in the number of quoted securities in a timely manner, but this could be addressed by a specific obligation to notify the market that x number of unquoted convertible securities have been exercised at x price and the underlying securities will be issued within 10 business days. We understand that some listed companies do this in any event.

We also note that ASX states in the Consultation Paper at page 11, in connection with the proposed extension of the period that listed companies have to issue securities in Listing Rule 7.1A(3)(b) to 10 trading days, that it had received feedback "*that in many cases 5 trading days is too short a period for eligible entities to attend to the formalities for issuing securities*". We agree, it is too short a period for the reasons outlined above.

Please contact me if you have any questions.

Yours faithfully

A handwritten signature in blue ink that reads "Mindy Bonomelli". The signature is written in a cursive, flowing style.

Mindy Bonomelli

Principal

mindy@bonomelli-legal.com.au