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## Newsletter Heading

Listed Entities Update 23 November 2011    Update no 08/11

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### Important Information for Listed Entities

#### 1. New listing Rules – good fame and character requirement for directors of applicant entities, effective 1 January 2012

As mentioned in [Listed Entities Update 07/11](#), ASX is proposing to amend its Listing Rules to introduce a requirement that an applicant for ASX listing satisfy ASX that its directors or proposed directors at the date of listing are of good fame and character. The relevant amendments to the [Listing Rules and Appendix 1A](#) (ASX Listing application and agreement) have been lodged with the Australian Securities and Investments Commission and ASX has received confirmation that the Minister has determined not to disallow the amendments.

In summary, the amendments comprise:

- A new condition 17 to be added to Listing Rule 1.1 to require an applicant for ASX listing to satisfy ASX that its directors or proposed directors at the date of listing are of good fame and character. (In the case of a trust, this requirement will apply in relation to directors and proposed directors of the responsible entity.)
- Appendix 1A (the ASX listing application and agreement) will contain a specific requirement that all applicants provide to ASX:
  - a police/CrimTrac national criminal history check (or its overseas equivalent) for each director or proposed director at the date of listing;
  - an ITSA Bankruptcy check (or its overseas equivalent) for each director or proposed director at the date of listing; and
  - a completed statutory declaration from each director or proposed director at the date of listing affirming, amongst other things, that they have not been the subject of relevant disciplinary or enforcement action by an exchange or securities market regulator or, if the director is not able to give such confirmation, a statement to that effect and a detailed explanation of the circumstances involved.
- A note to be added to Listing Rule 1.1 stating that in considering whether the applicant's directors or proposed directors meet the 'good fame and character' requirement, ASX will primarily have regard to the documents mentioned in the preceding paragraph. However, ASX may also have regard to any other information it has about the directors or proposed directors and, in an appropriate case, may require an

applicant for listing to provide additional information about its directors or proposed directors.

The full text of the amendments to the Listing Rules and Appendix 1A can be viewed on the "[Public Consultation](#)" page of the ASX website.

The amendments will come into effect on 1 January 2012. Applications for listing received on or after that date will need to be made on the new form of Appendix 1A and include the additional material referred to in Appendix 1A items 10A, 10B and 10C (in the case of listed companies) or items 22A, 22B and 22C (in the case of listed trusts).

ASX will be issuing new versions of Listing Rules Guidance Note 1 *Applying for Admission - ASX Listings*, Guidance Note 4 *Foreign Entities listing on ASX* and Guidance Note 12 *Significant Changes to Activities* on or about 1 January 2012 to include guidance on the 'good fame and character' requirement.

ASX is inviting comment from listed entities and their advisers on the proposed new versions of [Guidance Note 1 Applying for Admission – ASX Listings](#) and [Guidance Note 4 Foreign Entities listing on ASX](#). If you wish to provide comments, please do so by 16 December 2011 to the following email address: [kelly.boschenok@asx.com.au](mailto:kelly.boschenok@asx.com.au).

A copy of the pro forma statutory declaration required by directors of applicants for listing, and of the proposed new version of Guidance Note 12 Significant Changes to Activities, will also be made available for comment shortly.

A consolidated copy of Chapter 1 of the Listing Rules, and of the Appendix 1A, each incorporating the relevant amendments, will be posted on the ASX website and available through ASX Online on or about 1 January 2012.

## **2. "Regulatory Halts" under ASX Operating Rules**

ASX has amended the ASX Operating Rules and Procedures concerning trade cancellation policies across all of ASX's markets, and to align the Operating Rules with the ASIC Market Integrity Rules 2011 (Competition in Exchange Markets). The amendments come into effect on 28 November 2011. Amongst other things, the purpose of the amendments is to set down the parameters for extreme price movements which will result in trades in securities being subject to cancellation.

Listed entities may wish to be aware of at least one element of the new rules, namely the 'regulatory halt'.

ASIC's rules have introduced the concept of an 'extreme cancellation range'. Under ASIC's rules, trades occurring in the extreme cancellation range are subject to cancellation. The range is calculated based on a reference price, which will typically be the first traded price for that day or the price resulting from an intra-day auction.

ASX may impose a regulatory halt on a listed entity's securities when trades in

the listed entity's securities take place (or, but for the application of certain order entry controls would otherwise take place) in the extreme cancellation range.

A regulatory halt will be imposed for not less than 3 minutes. The regulatory halt session state has the same parameters as the pre-open session state. At the end of the regulatory halt session state, an auction will occur. The purpose of the auction is to allow the resetting of the reference price and the extreme cancellation range.

ASX will not apply a regulatory halt session state where any part of the regulatory halt session state would otherwise be applied during the pre-closing share price auction or closing share price auction session states.

Unlike trading halts or suspensions under the Listing Rules, or the placing of securities into the 'pre-notice received session state' when a market sensitive announcement is released, a regulatory halt is not imposed as a result of an action taken by or in relation to a listed entity. A regulatory halt is imposed by ASX if there is trading in an entity's securities on the market(s) that takes place (or, but for the application of certain order entry controls would otherwise take place) in the extreme cancellation range.

Please note that the information in this Listed Entities Update about regulatory halts is only a very simplified summary of one aspect of the relevant Operating Rules and Procedures about trade cancellation policies, and has been provided only to alert listed entities to the existence of a new kind of possible interruption to trading in their securities. Further details on the subject of trade cancellation policies, including links to the relevant ASX Operating Rules and Procedures, can be found in [ASX Market Circular 467/11](#).

### **3. Requests for Trading Halts before open of market**

ASX asks for listed entities' cooperation in relation to the timing of requests for trading halts before market open. If listed entities need or intend to request a trading halt before market open, they should make this decision and communicate it to their ASX Listings Adviser as early as possible. The process of imposing a trading halt is not instantaneous, and there is a risk that a trading halt request made verbally only a few minutes before 10.00 am AEST may not have been carried into effect before the open of the market.

As mentioned in [Listed Entities Update 07/11](#), Chi-X opens, and ASX PureMatch will open, at exactly 10.00 am AEST for all securities quoted on those platforms, unlike the staggered opening of securities in alphabetical groups on ASX TradeMatch. This means that there is now even less scope for last-minute trading halt requests to be carried out before a security opens.

It is in listed entities' interests that they should be decisive about requesting a trading halt in a situation where the market would not be reasonably informed, for example, if there has been a leak of previously confidential market sensitive information and the entity is not in a position to make an immediate announcement about the information. If in a particular situation it appears to

ASX that it is necessary that an entity's securities should not be traded until an appropriate announcement has been made, and the relevant listed entity is dilatory about requesting a trading halt, ASX will generally have little choice but to suspend quotation of the entity's securities.

If you have any queries about trading halts, including the process for requesting them, please do not hesitate to discuss them with your Listing Adviser.

#### 4. Diversity

The 'Male Champions of Change' (a group of business leaders convened by Elizabeth Broderick, the Sex Discrimination Commissioner of the Australian Human Rights Commission, to inspire and encourage corporate Australia to pursue gender diversity objectives) has published a document entitled: *'Our experiences in elevating the representation of women in leadership: A letter from business leaders'*.

Listed entities may find the publication helpful in assisting them to develop their own strategies to address the gender diversity recommendations in ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations*.

The publication can be accessed in soft copy at the [AHRC](#) and [ASX](#) websites.

#### 5. ASX Melbourne office address

The Melbourne office of ASX has moved to a different floor in the Rialto Building. The new address of the Melbourne office is:

Level 4, Rialto North Tower  
525 Collins Street  
Melbourne Victoria 3000

The postal address and telephone number remain the same:

ASX Limited  
GPO Box 1784  
Melbourne VIC 3001

Tel: (613) 9617 8611

To help keep our Listed Entities informed of information and events ASX will be sending emails to the Company Secretary's Office from time to time. You are receiving this email because you have been identified as a key contact within the Company Secretary's Office at your organisation. If you would like to update your email address please do so via the Directors/Senior Management page on [ASX Online for Companies](#). Feel free to forward this email to any relevant parties within your organisation.

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