

# Changes to the ASX Listing Rules: what you need to know

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## Key points

- In May 2016, the Australian Securities Exchange (**ASX**) released a consultation paper setting out proposed changes to the 'ASX Listing Rules.'
- The end result: key changes in various listing rules which were finalised on 2 November 2016 and are due to come into effect on 19 December 2016.
- The revisions to the Listing Rules include increasing the financial thresholds for listing, introducing a 20% free float requirement, and changes to the spread test, amongst others.

## Introduction

On 12 May 2016, the ASX released its consultation paper "Updating ASX's admission requirements for listed entities" (**Consultation Paper**), for a review of the listing admission requirements (**Listing Rules**). The Consultation Paper noted that "ASX has reviewed its requirements for admission to the ASX official list and is proposing changes to ensure that the ASX market continues to be a market of quality and integrity, and remains internationally competitive."<sup>1</sup>

Following strong stakeholder interest and consultations, the initial changes proposed in the Consultation Paper were somewhat diluted, and finalised with the Response to Consultation, issued by ASX on 2 November 2016.

The key changes to the ASX Listing Rules (**Rules**) relate mostly to entities seeking to list on the ASX, and are aimed to reflect ASX's ongoing commitment to integrity and fair regulation, while also keeping pace with changes to domestic and international markets.

## What are the key changes?

The ASX has changed its requirements relating to:

- for profit test entities, an increase in the requirement for consolidated profits for the 12 months prior to admission from \$400,000 to \$500,000;

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<sup>1</sup> Updating ASX's admission requirements for listed entities, Consultation Paper, 12 May 2016 p3.

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- an increase in the net tangible assets test from \$3 million to \$4 million;
- increase in the market capitalisation test from \$10 million to \$15 million;
- introducing a 20% minimum free float requirement;
- changing the 'spread test' requiring at least 300 security holders each holding at least \$2,000 of securities;
- a standardised \$1.5 million working capital requirement for all entities admitted under the asset test, making the minimum working capital requirements consistent across all entities; and
- introducing a requirement for entities admitted under the assets test to provide audited accounts for the last two full financial years.<sup>2</sup>

## Key changes in detail

### *Increasing financial thresholds for listing*

Entities seeking to list on the ASX must satisfy one of two financial tests – the income test and the asset test. The provision of two distinct financial tests allows businesses such as start-ups, who may not be in a financial position to satisfy the profitability test, but who may hold intangible and other assets, the opportunity to list with the ASX, and in this way the tests are somewhat complementary, designed to assess an entity's financial viability across different stages of its life cycle.

Currently, the profit test requires that an entity is a going concern and can demonstrate this for its last 3 financial years, has aggregated profit of \$1 million for the last 3 financial years, and has consolidated profit of at least \$400K in the last 12 months prior to listing. As these requirements have not changed since 1994, ASX has **increased the consolidated profit threshold to \$500K**, so as to remain relevant to the current Australian market. The other requirements would remain unchanged.

Currently, entities looking to list on the ASX must demonstrate assets with a value of at least \$3 million, or a market capitalisation of \$10 million. ASX is **increasing this to \$4 million and \$15 million**, respectively. The ASX considers that this change will "assist to maintain the quality of the market,"<sup>3</sup> however this may make it very difficult for successful start-ups to list and have access to capital.

### *Minimum free float requirement*

ASX does not currently have in place any minimum free float requirement; that is, for the minimum proportion of an entity's securities that will be available at listing for investors to freely trade in the public market. ASX has issued guidelines in the past which suggest that they expect companies to list with a minimum 10% free float.

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<sup>2</sup> Updating ASX's admission requirements for listed entities, Consultation Paper, 12 May 2016 p 3.

<sup>3</sup> Updating ASX's admission requirements for listed entities, Consultation Paper, 12 May 2016 p 5.

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ASX is introducing a requirement for an entity to have a **free float of 20% at the time of admission**. That is, 20% of the entity's main class of securities that are not restricted securities or subject to voluntary escrow are to be held by non-affiliated security holders."

### *Changing the spread test*

ASX currently has a spread test, which requires satisfaction of one of the following:

- by having 400 security holders who hold a parcel of securities with a value of at least \$2,000; or
- by having 350 security holders who hold a parcel of securities with a value of at least \$2,000, where there is a free float of at least 25%; or
- by having 300 security holders who hold a parcel of securities with a value of at least \$2,000, where there is a free float of at least 50%.

ASX has changed the spread test as follows:

- **300 non-affiliated security holders each holding a parcel of non-restricted securities with each holding a parcel of non-restricted securities with a value of at least \$2,000.**

The primary purpose of the change to the spread test is to demonstrate that there is sufficient investor interest to warrant the entity's listing. Excluding securities issued to related parties, the test ensures that the spread test is "...a robust and genuine test of investor interest".<sup>4</sup>

### *Working capital requirement*

ASX is standardising Listing Rule 1.3.3 so that **all entities must meet the \$1.5 million working capital requirement, and to require that this is available after taking into account the first full financial years' administration costs, and the cost of acquiring any assets referred to in the prospectus, PDS or information memorandum.**

This latter requirement is currently only levied at mining and oil and gas exploration companies.

### *Audited accounts for admission under the assets test*

ASX has introduced a new requirement for entities seeking admission under the asset test. They will be required to **produce audited accounts for the last two financial years** prior to admission.

### *Discretionary powers to refuse admission to the official list*

Currently, ASX has discretionary powers to refuse to allow entities to list on the exchange. ASX has reinforced this discretion by providing that **ASX has 'absolute discretion' on**

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<sup>4</sup> Updating ASX's Admission Requirements for Listed Entities – Final Listing Rule Amendments, Response to Consultation, November 2016, p 10.

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**admission and quotation decisions**, and ASX will take into account the reputation, integrity and efficiency of its market in making those decisions.

### *Changes to ASX foreign exempt listings*

ASX currently permits entities that have, as their main listing, a listing on an overseas market which is a member of the World Federation of Exchanges (WFE), and meets certain further criteria, to maintain a secondary listing on the ASX. Entities that fall within this exemption are not required to meet the requirements of the ASX Listing Rules (although they are expected to meet any requirements of their main exchange). This is supplanted by ASX's exemption to New Zealand entities listed on the NZX Main Board.

In an effort to provide Australian investors with the highest quality foreign investments, **ASX requires the overseas exchange to be one "acceptable to ASX,"** rather than merely being a member of the WFE, and to have either minimum net tangible assets of \$200 million or a minimum market capitalisation of \$200 million.

### *Backdoor listings*

Currently, where a backdoor listing is announced, trading in an entity's securities is permitted to continue until the shareholders approved the transaction. **ASX has changed this so that any entity announcing a backdoor listing transaction immediately has its securities suspended.**

## When do the changes come into effect?

The amendments to the Listing Rules come into effect on Monday 19 December 2016, although ASX is already applying the 20% minimum free float requirement under its general discretionary power to impose conditions. Applications for listing received prior to 19 December will be assessed against the current Listing Rules.

## How does this affect you?

It is vital that prospective listing applicants are aware of these changes, and engage with ASX ahead of any listing application. Contact us to find out how to ensure you are in compliance.

## Contact

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