

# ASX ADMISSION REQUIREMENTS TO BE UPDATED, RATHER THAN OVERHAULED

After a 6 month consultation period, ASX confirmed on Wednesday the changes to its admission requirements which will come into effect on 19 December 2016. While ASX has decided to proceed with some of the rule changes it proposed in May 2016, a number of proposals have been modified following consultation with stakeholders.

The motivation behind the final rule changes is the desire to:

- maintain the quality, integrity and international competitiveness of the ASX market;
- support and provide a pathway for early stage resources, technology and innovation entities to list and access capital.

## Higher hurdles - profit test and assets test

**Profit test** entities will now be required to demonstrate consolidated profits for the 12 months prior to admission of **\$500,000** (up from \$400,000). The aggregate \$1 million consolidated profits for the 3 years prior to admission will remain unchanged.

**Assets test** entities will now be required to satisfy one of the following:

- Net tangible assets (NTA) of at least **\$4 million** (up from \$3 million) after deducting the costs of the fund raising.
- A market capitalisation of at least **\$15 million** (up from \$10 million).

## Free float, spread and residency requirements

ASX is already exercising its discretion to require a minimum **free float of 20%**, "free float" being the percentage of the main class of securities that are not restricted securities, securities subject to voluntary escrow, or securities held by "affiliated security holders". The 20% free float threshold will continue, but as a new Listing Rule rather than as an exercise of discretion by ASX. The intention is that the new free float requirement will increase the potential for secondary market liquidity.

The existing **spread requirements**, which vary depending on the percentage of securities held by persons who are not "related parties" of the entity, will be replaced with a requirement for at least 300 security holders each holding at least \$2,000 of securities. The proposal to increase the size of the minimum parcel to \$5,000 was not pursued following feedback from stakeholders.

A campaign by retail investors for ASX to require entities to reserve 25%-40% of securities for retail investors was not successful.

To promote local interest and liquidity, ASX will encourage entities to have a reasonable number of security holders **resident in Australia**, with a reasonable level of security holdings. If the entity is incorporated in, has its main business operations in, or has a majority of its board or controlling shareholder resident in, an emerging or developing market, ASX will generally exercise its discretion to require the entity to have a minimum number of Australia resident security holders with a minimum size or value of security holding. ASX's new guidance suggests that it will typically require 75% of the minimum spread to come from Australian investors in these circumstances.

### Accounts and working capital

**Assets test** entities will be required to disclose (unless ASX agrees otherwise):

- audited accounts for the last **2 full financial years**; and
- if the last full financial year ends more than 6 months and 75 days before the entity applies for admission, audited or reviewed accounts for the **last half year**.

In addition, if the entity **acquires a significant entity or business** in the 12 months prior to applying for admission, or proposes to acquire such entity or business in connection with its listing, it must provide to ASX audited accounts for that entity or business for the last 2 full financial years, and also for the half year if the last full financial year ends more than 6 months and 75 days before the entity applies for admission.

A standardised **\$1.5 million working capital requirement** will apply to all assets test entities. The \$1.5 million is to be calculated after allowing for the first full financial year's budgeted administration costs and the cost of acquiring any assets referred to in its prospectus (to the extent those costs are to be met out of working capital). The carve out of administration costs from available working capital previously only applied to mining and exploration entities and oil and gas exploration entities.

### A middle ground for backdoor listings

In May 2016 ASX announced that it would suspend an entity's securities from the moment that it announced a backdoor listing transaction until such time as it re-complied with ASX's admission and quotation requirements. After consultation, ASX has made a further policy change which will allow an entity's securities to resume trading before the entity has re-complied with ASX's admission and

quotation requirements provided that the entity **announces all information required by ASX** (which is listed in Annexure A to updated Guidance Note 12) and ASX is otherwise satisfied that the announcement includes sufficient information about the transaction for trading in the entity's securities to take place on a reasonably informed basis.

ASX has also released a substantially revised version of Guidance Note 12 which provides more detailed guidance as to ASX's requirements in relation to backdoor listings including in relation to the content and review of notices of meeting, the re-admission process and associated waiver applications.

### Discretion to refuse admission

ASX has provided further guidance in its updated Guidance Note 1 *Applying for Admission - ASX Listings* as to the matters that ASX will take into consideration when determining whether an entity is suitable for listing. Matters ASX will consider include the entity's structure, business, financial condition and governance arrangements, if the entity is established or has its main business operations in an emerging or developing market, the genuineness of the entity's interest in accessing the Australian equity market, experience of the board and management and the qualifications of the entity's auditor.

To assist candidates and their advisers to understand how ASX may exercise its discretion, ASX has recently started to publish reports outlining declined listing applications and waiver applications.

### Summary of the amendments

The amended ASX listing requirements are:

	Current requirement	Requirement commencing on 19 December 2016
<b>Profit test</b>	<p>The profit test requires that an entity:</p> <ol style="list-style-type: none"> <li>is a going concern that has had the same main business activity during the past 3 full financial years prior to admission;</li> <li>has aggregated profit of at least \$1 million from continuing operations for the last 3 full financial years prior to admission; and</li> <li>has consolidated profit from continuing operations of at least \$400,000 for the 12 months prior to admission.</li> </ol>	<p>Limb 3 to increase to <b>\$500,000</b>.</p> <p>Limbs 1 and 2 remain the same.</p>
<b>Assets test</b>	<p>The assets test requires entities other than investment entities to have:</p> <ul style="list-style-type: none"> <li>net tangible assets of at least \$3 million; or</li> <li>a market capitalisation of at least \$10 million.</li> </ul>	<ul style="list-style-type: none"> <li>Minimum net tangible assets to increase to at least <b>\$4 million</b>.</li> <li>Minimum market capitalisation to increase to at least <b>\$15 million</b>.</li> </ul>
<b>Free float</b>	<p>There are no formal requirements for a minimum proportion of an entity's securities to be available at listing for investors to freely trade in the public market ("free float"), rather ASX is currently exercising its discretion under Listing Rule 1.19 to require a minimum 20% free float.</p>	<p>Minimum <b>20% free float</b> requirement.</p> <p>"Free float" is the percentage of the entity's main class of securities that are not restricted securities or subject to voluntary escrow, and are held by "non-affiliated security holders", generally being persons who are not a related party of the entity, or an associate of a related party.</p>

	Current requirement	Requirement commencing on 19 December 2016
<b>Spread</b>	<p>ASX's spread requirement can be met in one of the following ways:</p> <ul style="list-style-type: none"> <li>• 400 security holders who hold a parcel of securities with a value of at least \$2,000; or</li> <li>• 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</li> <li>• 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%.</li> </ul>	<p>New spread requirement of <b>300 security holders</b> each holding a parcel of securities with a value of at least <b>\$2,000</b>.</p>
<b>Working capital</b>	<p>All entities admitted under the assets test must have at least \$1.5 million in working capital after taking into account any budgeted revenue for the first financial year after listing.</p> <p>For mining and oil and gas exploration entities, the \$1.5 million must be available after allowing for the first full year's budgeted administration and capital expenditure costs.</p>	<p>Minimum working capital will remain at <b>\$1.5 million</b>.</p> <p>The \$1.5 million must be available after allowing for the first full financial year's <b>budgeted administration costs</b> and the <b>cost of acquiring any assets</b> referred to in the disclosure document (to the extent these costs will be met out of working capital).</p>
<b>Audited accounts - assets test entities</b>	<p>Entities admitted under the assets test may provide unaudited accounts and provide accounts for a period shorter than 3 full financial years.</p>	<p>Entities admitted under the assets test will be required to provide:</p> <ul style="list-style-type: none"> <li>• audited accounts for the past <b>2 full financial years</b>; and</li> <li>• where an entity is more than 6 months and 75 days into the current financial year audited or reviewed accounts for the last <b>half year</b>.</li> </ul> <p>In addition, if the entity has acquired any significant entity or business in the 12 months prior to applying for admission, or that it proposes to acquire in connection with its listing, the entity must provide for that significant entity or business, <b>2 full financial years of audited accounts</b> and where an entity is more than 6 months and 75 days into the current financial year, audited or reviewed accounts for the last <b>half year</b>.</p>

## Foreign exempt listings

ASX has also changed the admission requirements for foreign exempt listings to:

- tighten the requirements to require that the home exchange of the entity is "acceptable to ASX" rather than simply being a member of the World Federation of Exchanges; and
- broaden the requirements by introducing a minimum market capitalisation threshold test of \$2,000 million.

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