



Many private companies choose to publicly list on a stock exchange. This article will provide an overview of publicly listing a company on the Australian Securities Exchange ('ASX').



### A. INTRODUCTION

Listing refers to the process in which a company's shares are publicly listed and traded on a stock exchange. Financial markets and financial services are governed by the Corporations Act in Australia and primarily regulated by the Australian Securities and Investment Commission (ASIC).<sup>1</sup>

The largest stock exchange in Australia is the Australian Securities Exchange (ASX), which accounts for over 80% of the publicly listed securities in the country. As the holder of an Australian market licence, ASX also helps ASIC with regulation because of its obligation to ensure that its markets are fair and transparent. As such, companies listed on ASX are subjected to the:

- ASIC Marketing Integrity Rules;
- ASX Listing Rules<sup>2</sup>; and
- ASX Operating Rules.

### B. ADVANTAGES AND DISADVANTAGES OF PUBLICLY LISTING A COMPANY

There are many advantages and disadvantages of publicly listing a company on the stock exchange. As such, it is important to carefully consider the benefits or challenges that could be encountered when deciding whether to publicly list a company on the ASX.

The advantages of publicly listing a company include that it can:

- Allow the company to raise capital from a wider market through issue of public shares;
- Enhance the company's credibility and visibility in the public;
- Enhance attraction and retainment of employees through equity incentive schemes;
- Spread company risk amongst a wide shareholder base;
- Increase efficiency within the company due to internal reporting requirements; and
- Provide the original founders of the company with an exit strategy if they wish to leave the business at some point in the future.

Comparatively, the disadvantages of publicly listing a company include that it can:

- Result in the original owners/shareholders of the company losing control;

<sup>1</sup> Corporations Act 2001 (Cth) chs 6CA, 7

<sup>2</sup> <https://www2.asx.com.au/about/regulation/rules-guidance-notes-and-waivers/asx-listing-rules-guidance-notes-and-waivers>.



- Result in more responsibility and costs because of comprehensive regulatory requirements;
- Lead to a change in culture due to having to implement new management processes to operate as a listed company;
- Lead to increased public exposure and media scrutiny; and
- Result in the company's share prices and liquidity being susceptible to market conditions.

### **C. ASX LISTING RULES**

The purpose of the Listing Rules is to protect and serve the interests of publicly listed companies and investors. Accordingly, the ASX Listing Rules govern entities on the ASX. This includes regulating the admission and removal of entities, as well as the disclosure by and conduct of entities. The Listing Rules are enforceable rules,<sup>3</sup> with non-compliance resulting in suspension of the securities and/or removal of the entity from the official list.

#### **C.1. ASX Listing Rules: Admission**

Chapter 1 of the Listing Rules sets out the requirements that must be satisfied by entities for admission to the ASX official list. In certain situations, ASX may exercise its general discretion in:

- Allowing admission to an entity even if they have not satisfied all the requirements; and
- Refusing admission to an entity even when they have satisfied all the requirements.

To be admitted into the official list, entities need to fall into one of the following three classifications:

- ASX Listing (discussed in this article);
- ASX Debt Listing; or
- ASX Foreign Exempt Listing.

To be admitted into the official list as an ASX Listing, Australian registered companies need to satisfy 20 conditions related to the structure, size and number of shareholders of the company. This includes:

- Having an appropriate structure for a listed company;
- Having a constitution that is consistent with the Listing Rules;
- Having a minimum of 20% free float at the time of admission to the official list;
- Having at least 300 non-affiliated investors who each hold securities with a value of at least \$2,000;
- Lodging a prospectus that is clear and concise;<sup>4</sup> and
- Satisfying either the profit test or assets test.

To satisfy the profit test, a company needs to:

- Have an aggregated profit of at least \$1 million for the last three financial years;
- Have a consolidated profit and continuing profitability of at least \$500,000 for the last 12 months; and
- Provide ASX with audited accounts the last three financial years.<sup>5</sup>

Comparatively, to satisfy the assets test, a non-investment company needs to:

- Have either at least \$4 million in net tangible assets (after deducting costs of fundraising) or have a market capitalisation of at least \$15 million;
- Have working capital of at least \$1.5 million;
- Provide a statement (through the prospectus) that the company has enough working capital to meet its objectives; and
- Provide ASX with audited accounts for the last two financial years.<sup>6</sup>

<sup>3</sup> *Corporations Act 2001* (Cth) ss 793C, 1101B.

<sup>4</sup> *Ibid* ch 6D.

<sup>5</sup> ASX, Listing Rules (at 1 December 2019) r 1.2

<sup>6</sup> *Ibid* r 1.3.



**D. CONCLUSION**

Publicly listing a company can be complex and onerous. Comasters Law Firm can assist clients in satisfying the requirements prior to and after admission to the official list.

Comasters can assist clients with publicly listing a company.

© Comasters October 2021. **Important:** This is not advice. Clients should not act solely on the basis of the material contained in this paper. Our formal advice should be sought before acting on any aspect of the above information.

**CONTACT US**

Jeffrey T Lee Principal Lawyer  
Gina Bae Associate Lawyer  
Alice Huang Senior Paralegal  
Alizeh Ahmad Paralegal

Comasters Law Firm and Notary Public  
Suite 101, Level 1, Capitol Terrace  
743-755 George Street  
Sydney NSW 2000, Australia

T +612 9288 0300  
F +612 9288 0399  
E [comasters@comasters.com.au](mailto:comasters@comasters.com.au)  
[www.comasters.com.au](http://www.comasters.com.au)