

Chapter 11: Documents, Meetings and Other Procedural Requirements

OVERVIEW

This chapter sets out requirements in relation to documents, meetings and other procedural matters that need to be complied with by listed entities.

DOCUMENTS

Exchange Review of Draft Documents

- 11.1 An entity must provide the Exchange with drafts of the following documents for review:
- (a) amendments to the entity's constitution;
 - (b) notices of meeting relating to the issue of securities;
 - (c) documents to be sent to security holders in relation to securities on which a call is to be made or an instalment is due;
 - (d) amendments to trust deeds relating to debt securities or convertible debt securities;
 - (e) documents to be sent to persons in relation to a new issue under an arrangement or reconstruction;
 - (f) documents to be sent to security holders in relation to the expiry of their quoted options; and
 - (g) documents to be sent to security holders in relation to seeking an approval under the Listing Rules.
- 11.2 An entity must not release a document referred to in rule 11.1 until the Exchange has informed the entity that it may release the document. Within 7 business days of an entity providing a draft document to the Exchange for review, the Exchange will inform the entity whether the entity can release the document or whether the Exchange requires more time to review it.

Documents for Announcements Office

- 11.3 Where an entity is required under the Listing Rules to provide any of the following to the Exchange:
- (a) a document for release to the market;
 - (b) a document sent to the entity's securities holders;
 - (c) a prospectus, product disclosure statement or information memorandum;
 - (d) a takeover document;
 - (e) a trust deed; or
 - (f) the entity's constitution
- it must provide the document to the announcements office.
- 11.4 If the Exchange requires an entity to provide any other particular document to the announcements office the entity must do so.

Documents for Listings Office

- 11.5 Where an entity is required under the Listing Rules to provide any of the following to the Exchange:
- (a) a document not for release to the market;
 - (b) a response to the Exchange correspondence where the Exchange does not require the response to be provided to the announcements office
- it must provide the document to the listings office.
- 11.6 If the Exchange requires an entity to provide any other particular document to the listings office the entity must do so.

Provisions of Documents to the Exchange

- 11.7 An entity must provide documents to the Exchange in the manner published by the Exchange from time to time.
- 11.8 An entity must provide documents to the Exchange on its letterhead unless otherwise required under the Listing Rules or Australian law. Any document provided by an entity to the Exchange must be dated and signed by an authorised officer of the entity.
- 11.9 If an entity does not wish a document to be publicly released to the market it must clearly mark the document to that effect. The Exchange may, in its discretion, still release such a document to the market.
- 11.10 An entity must ensure that information for release to the market is not made available to any other person prior to providing the information to the Exchange and receiving notification from the Exchange that it has released the information to the market.
- 11.11 The Exchange is not bound by an embargo on any document provided to it by an entity for release to the market.
- 11.12 Any document provided by an entity to the Exchange becomes the property of the Exchange. The Exchange is then entitled to take whatever action it wants in relation to the document including copying, storing, publishing or releasing the document to the general public and allowing others to do so.

Provisions of Documents to Foreign Security Holders

- 11.13 An entity must send documents to foreign security holders in a manner that ensures they receive the documents quickly.

Constitutions

- 11.14 An entity's constitution must contain provisions to the following effect in relation to restricted securities:
- (a) restricted securities may only be disposed of during the escrow period in accordance with the Listing Rules or with the permission of the Exchange;
 - (b) the entity will only allow a transfer of restricted securities during the escrow period in accordance with the Listing Rules or with the permission of the Exchange; and
 - (c) a holder of restricted securities is not entitled to any dividend or distribution or to exercise any rights attaching to the restricted securities during any breach of a Listing Rule relating

to restricted securities or any breach of the restriction agreement covering the restricted securities.

11.15 An entity may only amend its constitution if the constitution, as amended, will comply with the Listing Rules.

11.16 If an entity amends its constitution it must provide a consolidated copy of the amended constitution to the companies office within seven business days of the amendments becoming effective.

GENERAL MEETINGS

Notices

11.17 If a notice of meeting, under a listing rule, is required to include particular information, an entity may include the information in the notice or in a document that accompanies the notice.

11.18 A notice of meeting must include a proxy form that:

- (a) allows a security holder to vote for or against each resolution to be put to the meeting; and
- (b) allows a security holder to appoint proxies of the security holder's choice. The proxy form may specify who will be appointed as proxy if the security holder does not nominate a proxy or proxies.

Appointment of Directors

11.19 An entity with directors must accept nominations for the election of directors up to 30 business days before the date of a general meeting at which directors may be elected. If its constitution allows, the entity may accept nominations closer to the date of the general meeting in accordance with its constitution.

11.20 Subject to rule 11.21, an entity with directors must comply with the following in relation to the appointment of directors:

- (a) a director who has held office for three years or three annual general meetings (whichever is longer) must stand for re-election at the entity's next annual general meeting; and
- (b) a director appointed to fill a casual vacancy or as an addition to the board must stand for re-election at the entity's next annual general meeting.

11.21 Rule 11.20 does not apply to an entity's managing director.

Listing Rule Approvals

11.22 Where a listing rule requires approval by security holders it means approval by ordinary resolution at a general meeting of the holders of ordinary securities unless otherwise specified in the particular rule.

11.23 Where a rule requires a notice of meeting to include a voting exclusion statement, the notice of meeting must contain a statement to the following effect:

The entity will disregard any votes cast on a resolution by:

- *the (named) person (or class of persons) excluded from voting; and*
- *an associate of that person (or those persons).*

However, the entity need not disregard a vote if:

- *it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or*
- *it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.*

11.24 If the Exchange notifies an entity of a person whose votes, in its opinion, should be disregarded at a general meeting the entity will disregard that person's votes. This rule applies even if the Exchange notifies an entity of such a person after the entity has sent a notice of meeting to security holders.

11.25 Where the approval of security holders is required under a listing rule, the approval is not effective unless the relevant notice of meeting includes everything the rule requires it to include and the entity complies with rule 11.26.

11.26 If in a notice of meeting, for the purposes of seeking the approval of security holders, an entity states it will do some thing required by a Listing Rules or rules, the entity must do so. If the particular thing needs to be done by another person, the entity must take all reasonable steps to ensure the other person does it.

Validity of Votes

11.27 If the Exchange requires an entity to do so, the entity must appoint its auditor, or another person with the approval of the Exchange, as scrutineer to decide the validity of votes cast at a general meeting of security holders.

Directors' Meetings

11.28 The chairman of a meeting of directors must not exercise a casting vote at any meeting where only two of the directors present are entitled to vote.

GENERAL PROCEDURES

Scope of Conduct

11.29 For the purposes of the Listing Rules, an act or omission by an entity includes any act or omission caused directly or indirectly by the entity.

Time

11.30 Where a listing rule requires something to be done by a day that is not a business day, it must be done by the preceding business day.

11.31 Where a listing rule refers to time it means local time unless the rule specifically refers to another time.

Exchange Notice to an Entity

11.32 An entity is deemed to have been given a notice or document by the Exchange if it is left at, or sent by post or facsimile, to the address or facsimile number:

- (a) of the entity in its admission application; or
- (b) of the entity as provided to the Exchange or used in correspondence with the Exchange.

This rule does not prevent the Exchange giving a notice or document to an entity in any other way permitted by law.

11.33 A notice or document is deemed to have been given by the Exchange to an entity:

- (a) at the time of delivery, if delivered;
- (b) on the second business day after posting, if posted; and
- (c) when it is received, if sent by facsimile. A successful facsimile transmission report is sufficient for this purpose.

Notifying the Exchange

11.34 If an entity is required to notify the Exchange of anything under a listing rule it must do so in writing.

Financial Statements

11.35 Where an entity is required to provide the Exchange with financial statements under a listing rule the financial statements must be:

- (a) consolidated statements, if required under any law, regulation, accounting standard or by the Exchange;
- (b) prepared to Australian accounting standards and in accordance with the Corporations Act;
- (c) audited by a registered auditor in accordance with Australian accounting standards and the Corporations Act, if the listing rule requires audited financial statements; and
- (d) reviewed in accordance with Australian auditing standards and the Corporations Act, if the listing rule requires the financial statements to be reviewed.