

MONTHLY CORPORATE UPDATE – JULY 2008

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Corporate Update	ASX Update
<p>Section 708 (of the Corporations Act 2001) - Offers of securities that do not need a disclosure document to be issued....</p> <p>When an entity wishes to make an offer of new securities to investors, there are rules in the Corporations Act that must be considered:</p> <p>Small scale offerings (20 issues or sales in 12 months): Offers of securities do not need any disclosure to investors if:</p> <p>(a) none of the offers result in a breach of the 20 investors ceiling; and</p> <p>(b) none of the offers result in a breach of the \$2 million ceiling.</p> <p>Note 1: Subsection 727(4) of the Act makes it an offence to issue or transfer securities without preparing a disclosure document to investors once 20 share issues or share transfers have occurred or \$2 million has been raised.</p> <p>Note 2: Under section 740 of the Act, ASIC may make a determination aggregating the share transactions to investors that ASIC considers to be closely related.</p> <p>When ceilings are breached by issue or transfer (sale) of securities: An offer to issue an entity's securities:</p> <p>(a) results in a breach of the 20 investors ceiling if it results in the number of people to whom securities of the entity have been issued or sold exceeds 20 in any 12 month period; and</p> <p>(b) results in a breach of the \$2 million ceiling if it results in the amount raised by the entity by issuing or sale of securities exceeding \$2 million in any 12 month period.</p> <p>Cont.....</p>	<p>Directors' Interests Notices....</p> <p>Both ASX and the ASIC are stepping up their monitoring of ensuring directors and the listed entity's in which directors are associated are meeting their continuous disclosure requirements under both the ASX listing rules and Corporations Act 2001.</p> <p>Listing rule 3.19A requires a listed entity to lodge on the ASX Company Announcements Platform a notice of a director's notifiable interests (using the appropriate Appendix) <u>within 5 business days</u> of any of the following events:</p> <ul style="list-style-type: none"> ▪ the director's appointment (Appendix 3X) ▪ the admission of the entity to the official list (Appendix 3X) ▪ a change to a director's notifiable interests (Appendix 3Y) ▪ a director ceasing to be a director (Appendix 3Z) <p>Where there is a change to a director's notifiable interests, the transaction date, as against the settlement date, is the date to be used in determining the reporting of a change in interests.</p> <p>Listing rule 3.19B requires every listed entity to enter into arrangements with its directors to ensure that all necessary information in relation to changes of directors' interests is given by the directors to the listed entity so that the listed entity can comply with its obligations under listing rule 3.19A to announce changes to a director's notifiable interests within the 5 business day time limit. The arrangements can be in the form of a 'letter of appointment' to the director when they consent to join the entity, signed and returned to the entity as acknowledgement of their disclosure responsibilities.</p> <p>Cont....</p>

Offers excluded from 20 issues or sales in 12 months and \$2 million ceiling:

An entity will disregard these ceilings if issues and sales result from offers that:

- (a) are not received in Australia; or
- (b) are made under a disclosure document.

Further, in working out the amount of money raised by the entity by issuing securities, the entity must include the following:

- (a) the amount payable for the securities at the time when they are issued;
- (b) if the securities are shares issued partly-paid — any amount payable at a future time if a call is made;
- (c) if the security is an option — any amount payable on the exercise of the option; and
- (d) if the securities carry a right to convert the securities into other securities — any amount payable on the exercise of that right.

Sophisticated investors:

An offer of an entity's securities **does not need** disclosure to investors if:

- (a) the minimum amount payable for the securities on acceptance of the offer by the person to whom the offer is made is at least \$500,000; or
- (b) the amount payable for the securities on acceptance by the person to whom the offer is made and the amounts previously paid by the person for the body's securities of the same class that are held by the person add up to at least \$500,000; or
- (c) it appears from a certificate given by a qualified accountant no more than 6 months before the offer is made that the person to whom the offer is made:
 - (i) has net assets of at least the amount specified in regulations made for the purposes of this subparagraph; or
 - (ii) has a gross income for each of the last 2 financial years of at least the amount specified in regulations made for the purposes of this subparagraph a year; or
- (d) the offer is made to a company or trust controlled by a person who meets the requirements of subparagraph (c)(i) or (ii).

Lodgement of the appropriate Appendix 3X, 3Y or 3Z within the 5 business day time limit will also serve to satisfy the requirements of section 205G of the Corporations Act 2001. Under section 205G, a director is obliged to notify ASX of changes to his or her relevant interests in securities, and interests in contracts relating to securities, within 14 calendar days of any such change.

From 1 July 2008 ASX has been actively monitoring the lodgement of directors' interest notices. ASX intends to take action in relation to any director's interest notice which is lodged late, or which is incomplete.

The actions may include any or all of the following:

- (a) writing to the listed entity noting the breach of the listing rules,
- (b) requesting an explanation for the breach, and
- (c) asking for details of the arrangements that the listed entity has in place with its directors to enable it to comply with its obligations under listing rule 3.19A (PDF 163KB). This correspondence will be released to the market.

Where an Appendix 3Y has been lodged later than 14 calendar days after the change in the director's interests, and the director has not lodged any other notification of his or her own to comply with section 205G of the Corporations Act, ASX will refer the breach of the Corporations Act to ASIC.

Quote....

"Only buy something that you'd be perfectly happy to hold if the market shut down for 10 years." - Warren Buffett

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